

**NOTICE MAILED PRIOR TO FEBRUARY 20, 2009
HEARING**

NOTICE OF PUBLIC HEARING

GROUP RESIDENTIAL USE PERMITS

YELLOWSTONE WOMEN'S FIRST STEP HOUSE, INC.

1561 INDUS STREET, 1621 INDUS STREET, 1571 PEGASUS STREET, & 20172 REDLANDS DRIVE

NOTICE IS HEREBY GIVEN that the public hearing originally scheduled on February 12, 2009, at 4:00 p.m. is now set for **Friday, February 20, 2009 at 2:00 p.m.** in the City Council Chambers (Building A) at 3300 Newport Boulevard, Newport Beach, California. The Hearing Officer designated by the City Council of the City of Newport Beach will consider the applications of Yellowstone Women's First Step House, Inc., for four separate Use Permits and requests for Reasonable Accommodation at four locations.

For more information, call (949) 644-3232 or (949) 644-3002. To be added to a permanent notification list of these hearings, e-mail dkiff@city.newport-beach.ca.us and ask to receive these notices.

Project File No.: PA2008-105, PA2008-106, PA2008-107 and PA2008-108
Activity No.: UP2008-034/RA2009-004, UP2008-035/RA2009-005, UP2008-037/RA2009-006 and UP2008-038/RA2009-007

Dave Kiff, Assistant City Manager, City of Newport Beach

CITY OF NEWPORT BEACH PLANNING DEPARTMENT

Notices for the February 20, 2009 Public Hearing

- ❖ On **February 6, 2009**, public notices for the following applications were mailed to all of the property owners within a 300-foot radius of the subject properties to inform the neighboring residents of the change to the Public Hearing date from February 12, 2009 to **Friday, February 20, 2009 at 2:00 p.m.**

- | | |
|-------------------------|-----------------------------|
| 1. 20172 Redlands Drive | PA2008-108 for UP2008-037 |
| 2. 1571 Pegasus Street | PA2008-107 for UP2008-036 |
| 3. 1561 Indus Street | PA2008-105 for UP2008-034 ✓ |
| 4. 1621 Indus Street | PA2008-106 for UP2008-035 |


Signature

Owner Listing within 300' of:

20172 Redlands Drive PA2008-108 for UP2008-037

1571 Pegasus Street PA2008-107 for UP2008-036

1561 Indus Street PA2008-105 for UP2008-034 ✓

1621 Indus Street PA2008-106 for UP2008-035

APN	RESIDENT/OWNER	ADDRESS	STREET/SUITE	CITY	STATE	ZIP
119 351 01	ERIC ROSENTHAL	1661	INDUS ST	SANTA ANA	CA	92707
119 351 02	KATHLEEN A LOOMAN	1671	INDUS ST	SANTA ANA	CA	92707
119 351 03	WILSON REED ROBINSON	20091	KLINE DR	SANTA ANA	CA	92707
119 351 17	VINCENT D COOK	1692	PEGASUS ST	SANTA ANA	CA	92707
119 351 18	HENRY D O'SHEA	1672	PEGASUS ST	SANTA ANA	CA	92707
119 351 19	GARY DEVINE	1662	PEGASUS ST	SANTA ANA	CA	92707
119 351 20	WILLIAM H BOSSERT	1661	ORCHARD DR	SANTA ANA	CA	92707
119 351 21	LOUISE C LEE	1671	ORCHARD DR	SANTA ANA	CA	92707
119 352 01	GRAZIANO & DEN PESTARINO	2809	LA SALLE AVE	COSTA MESA	CA	92626
119 352 02	KLINE TRUST	NA	PO BOX 6465	IRVINE	CA	92616
119 352 03	MATTHEW L BIESER	20141	KLINE DR	SANTA ANA	CA	92707
119 352 04	MICHAEL S CHRISTY	20151	KLINE DR	SANTA ANA	CA	92707
119 352 05	ROBERT LEO DUBE'	20161	KLINE DR	SANTA ANA	CA	92707
119 352 06	ROSA BALOGH	20181	KLINE DR	SANTA ANA	CA	92707
119 352 07	BEATRICE BOCSI	1681	PEGASUS ST	SANTA ANA	CA	92707
119 352 08	KATHLEEN M ANDREWS	1671	PEGASUS ST	SANTA ANA	CA	92707
119 352 09	FRANK H MASTERSON	20152	RIVERSIDE DR	SANTA ANA	CA	92707
119 352 10	EDLER PAUL M FAMILY TRUST	20142	RIVERSIDE DR	SANTA ANA	CA	92707
119 352 11	ANGUS E RICHARDSON	20122	RIVERSIDE DR	SANTA ANA	CA	92707
119 352 12	GEORGE L ROBERTSON	20112	RIVERSIDE DR	SANTA ANA	CA	92707
119 361 01	JAMES C HARVEY	1651	INDUS ST	SANTA ANA	CA	92707
119 361 02	YURETTA LORMAN	NA	PO BOX 2421	COSTA MESA	CA	92628
119 361 03	PETER H WEISMANN	1631	INDUS ST	SANTA ANA	CA	92707
119 361 04	THAMES TRUST	28	IMA LOA CT	NEWPORT BEACH	CA	92663
119 361 05	ROBERT B HANLEY	1601	INDUS ST	SANTA ANA	CA	92707
119 361 06	CHARLOTTE C Z; HOGAN	507	ALTA VISTA DR	SANTA CRUZ	CA	95060
119 361 07	WILLIAM D WALKER	1571	INDUS ST	SANTA ANA	CA	92707
119 361 08	ANNA THAMES	154	E BAY ST	COSTA MESA	CA	92627
119 361 09	TRAVIS & JENNIFER HAINING	1572	INDUS ST	SANTA ANA	CA	92707
119 361 10	BRIAN PATRICK SULLIVAN	1592	INDUS ST	SANTA ANA	CA	92707
119 361 11	THOMPSON MALCOLM F TRUST	1602	INDUS ST	SANTA ANA	CA	92707
119 361 12	JONATHAN & JANICE DAVIS	1601	PEGASUS ST	SANTA ANA	CA	92707
119 361 13	DANIELLE J SEARS	1591	PEGASUS ST	SANTA ANA	CA	92707
119 361 14	ANNA MARIE THAMES	1571	PEGASUS ST	SANTA ANA	CA	92707
119 361 15	WAYNE E ROGALLA	1561	PEGASUS ST	SANTA ANA	CA	92707
119 361 16	CHESTER P GROSKREUTZ	1551	PEGASUS ST	SANTA ANA	CA	92707
119 361 17	PETER ALLEN KEMMERLY	1531	PEGASUS ST	SANTA ANA	CA	92707
119 361 18	JOSEPH & L R SANDOR & CYNTHIA	1521	PEGASUS ST	SANTA ANA	CA	92707
119 361 19	JACK MOTLEY	1501	PEGASUS ST	SANTA ANA	CA	92707
119 361 25	FV SANTA ANA LLC	21	ROADRUNNER CT	COTO DE CAZA	CA	92679
119 362 01	PATRICIA RUTH SANDERS	20111	RIVERSIDE DR	SANTA ANA	CA	92707

Owner Listing within 300' of:

20172 Redlands Drive PA2008-108 for UP2008-037

1571 Pegasus Street PA2008-107 for UP2008-036

1561 Indus Street PA2008-105 for UP2008-034

1621 Indus Street PA2008-106 for UP2008-035

APN	RESIDENT/OWNER	ADDRESS	STREET/SUITE	CITY	STATE	ZIP
119 362 02	DAVID M PLISCO	20121	RIVERSIDE DR	SANTA ANA	CA	92707
119 362 03	RIVERSIDE TRUST 20141	17853	SANTIAGO BLVD	VILLA PARK	CA	92861
119 362 04	WELLS FARGO BK NA	3476	STATEVIEW BLVD	FORT MILL	SC	29715
119 362 05	DUFFY FAMILY TRUST	1651	PEGASUS ST	SANTA ANA	CA	92707
119 362 06	MICHAEL & BARBARA GOOD	1631	PEGASUS ST	SANTA ANA	CA	92707
119 362 07	STEPHEN THAMES	28	IMA LOA CT	NEWPORT BEACH	CA	92663
119 362 08	ANNIE N PIERMONT	20162	REDLANDS DR	SANTA ANA	CA	92707
119 362 09	MICHAEL G FEDORCHEK	20152	REDLANDS DR	SANTA ANA	CA	92707
119 362 10	PETER P ANDREWS	20132	REDLANDS DR	SANTA ANA	CA	92707
119 362 11	BOSLEY TRUST	1632	INDUS ST	SANTA ANA	CA	92707
119 363 01	EDWARD PATRICK KEHOE	1642	PEGASUS ST	SANTA ANA	CA	92707
119 363 02	SOHRAB HASHEM	1632	PEGASUS ST	SANTA ANA	CA	92707
119 363 03	JACK GRUBISICH	411	S HARBOR BLVD	SANTA ANA	CA	92704
119 363 04	THOMAS JOHN QUEBBEMANN	1621	ORCHARD DR	SANTA ANA	CA	92707
119 363 05	R WESLEY BEAVERS	1631	ORCHARD DR	SANTA ANA	CA	92707
119 363 06	YI HAN WEI	1641	ORCHARD DR	SANTA ANA	CA	92707
119 364 01	WARREN FAMILY TRUST	NA	PO BOX 5474	NEWPORT BEACH	CA	92662
119 364 02	STEPHEN E ABRAHAM	1592	PEGASUS ST	SANTA ANA	CA	92707
119 364 03	LUZ APELES	1572	PEGASUS ST	SANTA ANA	CA	92707
119 364 04	MCDONOUGH 2005 TRUST	1562	PEGASUS ST	SANTA ANA	CA	92707
119 364 05	BRIAN WECKLICH	NA	PO BOX 1803	COSTA MESA	CA	92628
119 364 06	COU	1532	PEGASUS ST	SANTA ANA	CA	92707
119 364 07	C SEPARATE PROP CHIARENZA	1522	PEGASUS ST	SANTA ANA	CA	92707
119 364 08	US BANK NA SERIES 2007-1	1502	PEGASUS ST	SANTA ANA	CA	92707
119 364 10	JAMES J & JULIA L ISAACS III	1541	ORCHARD DR	SANTA ANA	CA	92707
119 364 11	DAVID KERREK	1551	ORCHARD DR	SANTA ANA	CA	92707
119 364 12	JOHN C ENGLISH	1561	ORCHARD DR	SANTA ANA	CA	92707
119 364 13	LILLIAN V MARTIN	1571	ORCHARD DR	SANTA ANA	CA	92707
119 364 14	KANJER TRUST	1591	ORCHARD DR	SANTA ANA	CA	92707
119 364 15	CHURCHILL TRUST	1801	PARK COURT PL #B	SANTA ANA	CA	92701
119 364 19	PAUL PERRY	1511	ORCHARD DR	SANTA ANA	CA	92707

Resident Listing within 300' of:

20172 Redlands Drive PA2008-108 for UP2008-037

1571 Pegasus Street PA2008-107 for UP2008-036

1561 Indus Street PA2008-105 for UP2008-034

1621 Indus Street PA2008-106 for UP2008-035

APN	RESIDENT/OWNER	ADDRESS	STREET/SUITE	CITY	STATE	ZIP
119 351 01	RESIDENT	1661	INDUS ST	NEWPORT BEACH	CA	92707
119 351 02	RESIDENT	1671	INDUS ST	NEWPORT BEACH	CA	92707
119 351 03	RESIDENT	20091	KLIN DR	NEWPORT BEACH	CA	92707
119 351 17	RESIDENT	1692	PEGASUS ST	NEWPORT BEACH	CA	92707
119 351 18	RESIDENT	1672	PEGASUS ST	NEWPORT BEACH	CA	92707
119 351 19	RESIDENT	1662	PEGASUS ST	NEWPORT BEACH	CA	92707
119 351 20	RESIDENT	1661	ORCHARD DR	NEWPORT BEACH	CA	92707
119 351 21	RESIDENT	1671	ORCHARD DR	NEWPORT BEACH	CA	92707
119 352 01	RESIDENT	20111	KLIN DR	NEWPORT BEACH	CA	92707
119 352 02	RESIDENT	20121	KLIN DR	NEWPORT BEACH	CA	92707
119 352 03	RESIDENT	20141	KLIN DR	NEWPORT BEACH	CA	92707
119 352 04	RESIDENT	20151	KLIN DR	NEWPORT BEACH	CA	92707
119 352 05	RESIDENT	20161	KLIN DR	NEWPORT BEACH	CA	92707
119 352 06	RESIDENT	20181	KLIN DR	NEWPORT BEACH	CA	92707
119 352 07	RESIDENT	1681	PEGASUS ST	NEWPORT BEACH	CA	92707
119 352 08	RESIDENT	1671	PEGASUS ST	NEWPORT BEACH	CA	92707
119 352 09	RESIDENT	20152	RIVERSIDE DR	NEWPORT BEACH	CA	92707
119 352 10	RESIDENT	20142	RIVERSIDE DR	NEWPORT BEACH	CA	92707
119 352 11	RESIDENT	20122	RIVERSIDE DR	NEWPORT BEACH	CA	92707
119 352 12	RESIDENT	20112	RIVERSIDE DR	NEWPORT BEACH	CA	92707
119 361 01	RESIDENT	1651	INDUS ST	NEWPORT BEACH	CA	92707
119 361 02	RESIDENT	1641	INDUS ST	NEWPORT BEACH	CA	92707
119 361 03	RESIDENT	1631	INDUS ST	NEWPORT BEACH	CA	92707
119 361 04	RESIDENT	1621	INDUS ST	NEWPORT BEACH	CA	92707
119 361 05	RESIDENT	1601	INDUS ST	NEWPORT BEACH	CA	92707
119 361 06	RESIDENT	1591	INDUS ST	NEWPORT BEACH	CA	92707
119 361 07	RESIDENT	1571	INDUS ST	NEWPORT BEACH	CA	92707
119 361 08	RESIDENT	1561	INDUS ST	NEWPORT BEACH	CA	92707
119 361 09	RESIDENT	1572	INDUS ST	NEWPORT BEACH	CA	92707
119 361 10	RESIDENT	1592	INDUS ST	NEWPORT BEACH	CA	92707
119 361 11	RESIDENT	1602	INDUS ST	NEWPORT BEACH	CA	92707
119 361 12	RESIDENT	1601	PEGASUS ST	NEWPORT BEACH	CA	92707
119 361 13	RESIDENT	1591	PEGASUS ST	NEWPORT BEACH	CA	92707
119 361 14	RESIDENT	1571	PEGASUS ST	NEWPORT BEACH	CA	92707
119 361 15	RESIDENT	1561	PEGASUS ST	NEWPORT BEACH	CA	92707
119 361 16	RESIDENT	1551	PEGASUS ST	NEWPORT BEACH	CA	92707
119 361 17	RESIDENT	1531	PEGASUS ST	NEWPORT BEACH	CA	92707
119 361 18	RESIDENT	1521	PEGASUS ST	NEWPORT BEACH	CA	92707
119 361 19	RESIDENT	1501	PEGASUS ST	NEWPORT BEACH	CA	92707
119 361 25	RESIDENT	20162	SANTA ANA AVE	NEWPORT BEACH	CA	92707

Resident Listing within 300' of:

20172 Redlands Drive PA2008-108 for UP2008-037

1571 Pegasus Street PA2008-107 for UP2008-036

1561 Indus Street PA2008-105 for UP2008-034

1621 Indus Street PA2008-106 for UP2008-035

119 362 01	RESIDENT	20111	RIVERSIDE DR	NEWPORT BEACH	CA	92707
119 362 02	RESIDENT	20121	RIVERSIDE DR	NEWPORT BEACH	CA	92707
119 362 03	RESIDENT	20141	RIVERSIDE DR	NEWPORT BEACH	CA	92707
119 362 04	RESIDENT	20151	RIVERSIDE DR	NEWPORT BEACH	CA	92707
119 362 05	RESIDENT	1651	PEGASUS ST	NEWPORT BEACH	CA	92707
119 362 06	RESIDENT	1631	PEGASUS ST	NEWPORT BEACH	CA	92707
119 362 07	RESIDENT	20172	REDLANDS DR	NEWPORT BEACH	CA	92707
119 362 08	RESIDENT	20162	REDLANDS DR	NEWPORT BEACH	CA	92707
119 362 09	RESIDENT	20152	REDLANDS DR	NEWPORT BEACH	CA	92707
119 362 10	RESIDENT	20132	REDLANDS DR	NEWPORT BEACH	CA	92707
119 362 11	RESIDENT	1632	INDUS ST	NEWPORT BEACH	CA	92707
119 363 01	RESIDENT	1642	PEGASUS ST	NEWPORT BEACH	CA	92707
119 363 02	RESIDENT	1632	PEGASUS ST	NEWPORT BEACH	CA	92707
119 363 03	RESIDENT	1622	PEGASUS ST	NEWPORT BEACH	CA	92707
119 363 04	RESIDENT	1621	ORCHARD DR	NEWPORT BEACH	CA	92707
119 363 05	RESIDENT	1631	ORCHARD DR	NEWPORT BEACH	CA	92707
119 363 06	RESIDENT	1641	ORCHARD DR	NEWPORT BEACH	CA	92707
119 364 01	RESIDENT	1602	PEGASUS ST	NEWPORT BEACH	CA	92707
119 364 02	RESIDENT	1592	PEGASUS ST	NEWPORT BEACH	CA	92707
119 364 03	RESIDENT	1572	PEGASUS ST	NEWPORT BEACH	CA	92707
119 364 04	RESIDENT	1562	PEGASUS ST	NEWPORT BEACH	CA	92707
119 364 05	RESIDENT	1552	PEGASUS ST	NEWPORT BEACH	CA	92707
119 364 06	RESIDENT	1532	PEGASUS ST	NEWPORT BEACH	CA	92707
119 364 07	RESIDENT	1522	PEGASUS ST	NEWPORT BEACH	CA	92707
119 364 08	RESIDENT	1502	PEGASUS ST	NEWPORT BEACH	CA	92707
119 364 10	RESIDENT	1541	ORCHARD DR	NEWPORT BEACH	CA	92707
119 364 11	RESIDENT	1551	ORCHARD DR	NEWPORT BEACH	CA	92707
119 364 12	RESIDENT	1561	ORCHARD DR	NEWPORT BEACH	CA	92707
119 364 13	RESIDENT	1571	ORCHARD DR	NEWPORT BEACH	CA	92707
119 364 14	RESIDENT	1591	ORCHARD DR	NEWPORT BEACH	CA	92707
119 364 15	RESIDENT	1601	ORCHARD DR	NEWPORT BEACH	CA	92707
119 364 19	RESIDENT	1511	ORCHARD DR	NEWPORT BEACH	CA	92707

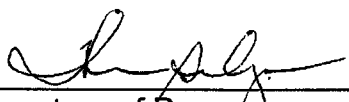


**PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CALIFORNIA 92663**

PHONE: 949/644-3200

FAX: 949/644-3229

Please see the attached radius map and mailing labels created for properties within a 300-foot radius, excluding roads and waterways for non-residentially zoned properties, of the subject parcel located at 20172 Redlands Drive, 1571 Pegasus Street, 1561 Indus Street, and 1621 Indus Street in the City of Newport Beach, County of Orange. The property information was acquired through the Newport Beach GIS Web Mapping system. Further, the information is based upon the most up-to-date records of the county tax assessor and is deemed reliable, but is not guaranteed.



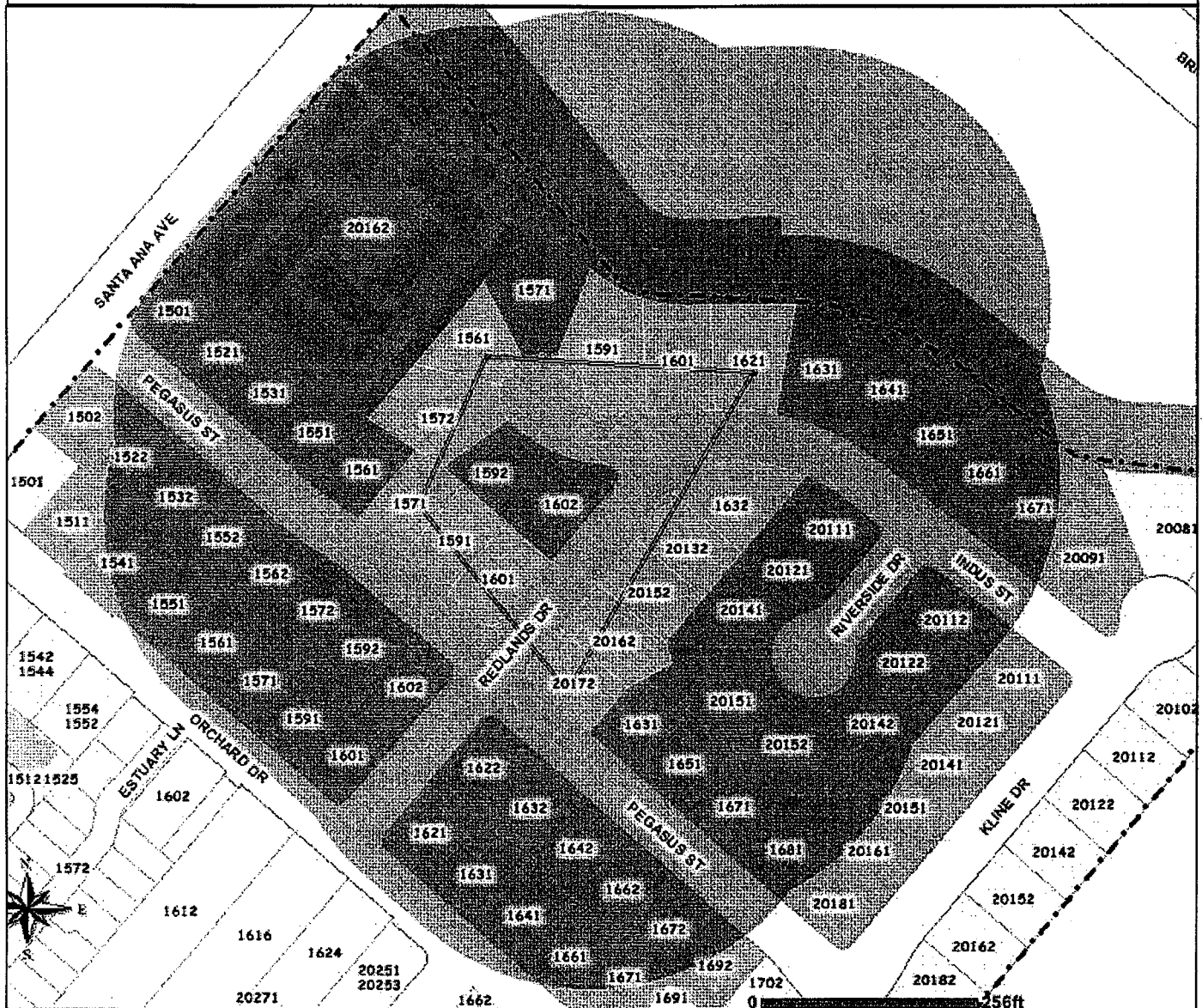
Signature of Preparer

1-28-09

Date Prepared

Radius Map

20172 Redlands Drive	PA2008-108 for UP2008-037
1571 Pegasus Street	PA2008-107 for UP2008-036
1561 Indus Street	PA2008-105 for UP2008-034
1621 Indus Street	PA2008-106 for UP2008-035



AGENDA FOR FEBRUARY 20, 2009 HEARING

City of Newport Beach
GROUP RESIDENTIAL USE PERMIT HEARING
AGENDA



This hearing is held in accordance with Newport Beach Municipal Code Chapter 20.91A (*Use Permits in Residential Districts*).

DATE: Friday, February 20, 2009
TIME: 2:00 p.m. - 5:00 p.m. (Hearing must be concluded or continued by 6 p.m.)
LOCATION: Council Chambers, Newport Beach City Hall @ 3300 Newport Boulevard
HEARING OFFICER: Thomas W. Allen

AGENDA ITEM #1

USE PERMIT No.: 2008-034 (PA2008-105)
REASONABLE ACCOMMODATION No. 2009-04
APPLICANT: Yellowstone Women's First Step House, Inc
SUBJECT PROPERTY: 1561 Indus Street

PROJECT SUMMARY: An application requesting approval of a Use Permit to allow a residential care facility to operate an unlicensed "sober living" facility for 12 women. This application has been filed in accordance with Ordinance No. 2008-05, which was adopted by the City Council in January 2008. This is a public hearing item.

AGENDA ITEM #2

USE PERMIT No.: 2008-035 (PA2008-106)
REASONABLE ACCOMMODATION No. 2009-05
APPLICANT: Yellowstone Women's First Step House, Inc
SUBJECT PROPERTY: 1621 Indus Street

PROJECT SUMMARY: An application requesting approval of a Use Permit to allow a residential care facility to operate an unlicensed "sober living" facility for 17 women. This application has been filed in accordance with Ordinance No. 2008-05, which was adopted by the City Council in January 2008. This is a public hearing item.

AGENDA ITEM #3

USE PERMIT No.: 2008-036 (PA2008-107)
REASONABLE ACCOMMODATION No. 2009-06
APPLICANT: Yellowstone Women's First Step House, Inc
SUBJECT PROPERTY: 1571 Pegasus Street

PROJECT SUMMARY: An application requesting approval of a Use Permit to allow a residential care facility to operate an unlicensed "sober living" facility for 18 women. This application has been filed in accordance with Ordinance No. 2008-05, which was adopted by the City Council in January 2008. This is a public hearing item.

AGENDA ITEM #4

USE PERMIT No.: 2008-037 (PA2008-108)
REASONABLE ACCOMMODATION No. 2009-07
APPLICANT: Yellowstone Women's First Step House, Inc
SUBJECT PROPERTY: 20172 Redlands Drive

PROJECT SUMMARY: An application requesting approval of a Use Permit to allow a residential care facility to operate an unlicensed "sober living" facility for 18 men. This application has been filed in accordance with Ordinance No. 2008-05, which was adopted by the City Council in January 2008. This is a public hearing item.

AGENDA ACTION

1. Meeting Convened (Hearing Officer)
2. **Agenda Item #1 – Public Hearing – Yellowstone Women's First Step House, 1561 Indus**
 - a) Presentation of the application (Newport Beach city staff)
 - b) Applicant comments, if any
 - c) Public hearing opened (Hearing Officer).
 - i. Comments are limited to comments about the subject property's application and operations; and
 - ii. Comments limited to three minutes, unless otherwise ordered by the Hearing Officer.
 - d) Public hearing closed (Hearing Officer).
 - e) Applicant may offer rebutting or clarifying comments (Applicant).
 - f) Hearing officer's questions of City staff or applicant.
 - g) Hearing Officer determination. Options include continuance, approval of a use permit with conditions or denial of a use permit. In the latter two cases, the Hearing Officer may instruct staff to prepare the Resolution for his signature.
3. **Agenda Item #2 – Public Hearing – Yellowstone Women's First Step House, 1621 Indus**
 - a) Presentation of the application (Newport Beach city staff)
 - b) Applicant comments, if any
 - c) Public hearing opened (Hearing Officer).
 - i. Comments are limited to comments about the subject property's application and operations; and
 - ii. Comments limited to three minutes, unless otherwise ordered by the Hearing Officer.
 - d) Public hearing closed (Hearing Officer).
 - e) Applicant may offer rebutting or clarifying comments (Applicant).
 - f) Hearing officer's questions of City staff or applicant.

- g) Hearing Officer determination. Options include continuance, approval of a use permit with conditions or denial of a use permit. In the latter two cases, the Hearing Officer may instruct staff to prepare the Resolution for his signature.

4. Agenda Item #4 – Public Hearing – Yellowstone Women’s First Step House, 1571 Pegasus

- a) Presentation of the application (Newport Beach city staff)
- b) Applicant comments, if any
- c) Public hearing opened (Hearing Officer).
 - i. Comments are limited to comments about the subject property’s application and operations; and
 - ii. Comments limited to three minutes, unless otherwise ordered by the Hearing Officer.
- d) Public hearing closed (Hearing Officer).
- e) Applicant may offer rebutting or clarifying comments (Applicant).
- f) Hearing officer’s questions of City staff or applicant.
- g) Hearing Officer determination. Options include continuance, approval of a use permit with conditions or denial of a use permit. In the latter two cases, the Hearing Officer may instruct staff to prepare the Resolution for his signature.

5. Agenda Item #2 – Public Hearing – Yellowstone Women’s First Step House, 20172

Redlands

- a) Presentation of the application (Newport Beach city staff)
- b) Applicant comments, if any
- c) Public hearing opened (Hearing Officer).
 - i. Comments are limited to comments about the subject property’s application and operations; and
 - ii. Comments limited to three minutes, unless otherwise ordered by the Hearing Officer.
- d) Public hearing closed (Hearing Officer).
- e) Applicant may offer rebutting or clarifying comments (Applicant).
- f) Hearing officer’s questions of City staff or applicant.
- g) Hearing Officer determination. Options include continuance, approval of a use permit with conditions or denial of a use permit. In the latter two cases, the Hearing Officer may instruct staff to prepare the Resolution for his signature.

6. Adjournment (Hearing Officer).

CEQA: This activity has been determined to be categorically exempt under the requirements of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from CEQA’s provisions.

APPEAL PERIOD: Use Permits do not become effective until 14 days after the date of approval, during which time the decision of the Hearing Officer may be appealed to the City Council.

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**1561 INDUS: STAFF REPORT (w/ Exhibits 1-11)
FOR FEBRUARY 20, 2009 HEARING**

CITY OF NEWPORT BEACH

HEARING OFFICER'S STAFF REPORT

February 20, 2009
Agenda Item #1

TO: Thomas W. Allen, Hearing Officer

SUBJECT: Yellowstone Women's First Step House, Inc. (PA2008-105)
1561 Indus Street

- Use Permit No. 2008-034
- Reasonable Accommodation No. 2009-04

APPLICANT: Yellowstone Women's First Step House, Inc.
Isaac R. Zfaty, Attorney

CONTACT: Janet Johnson Brown, Associate Planner
(949) 644-3236, jbrown@city.newport-beach.ca.us

PROJECT SUMMARY

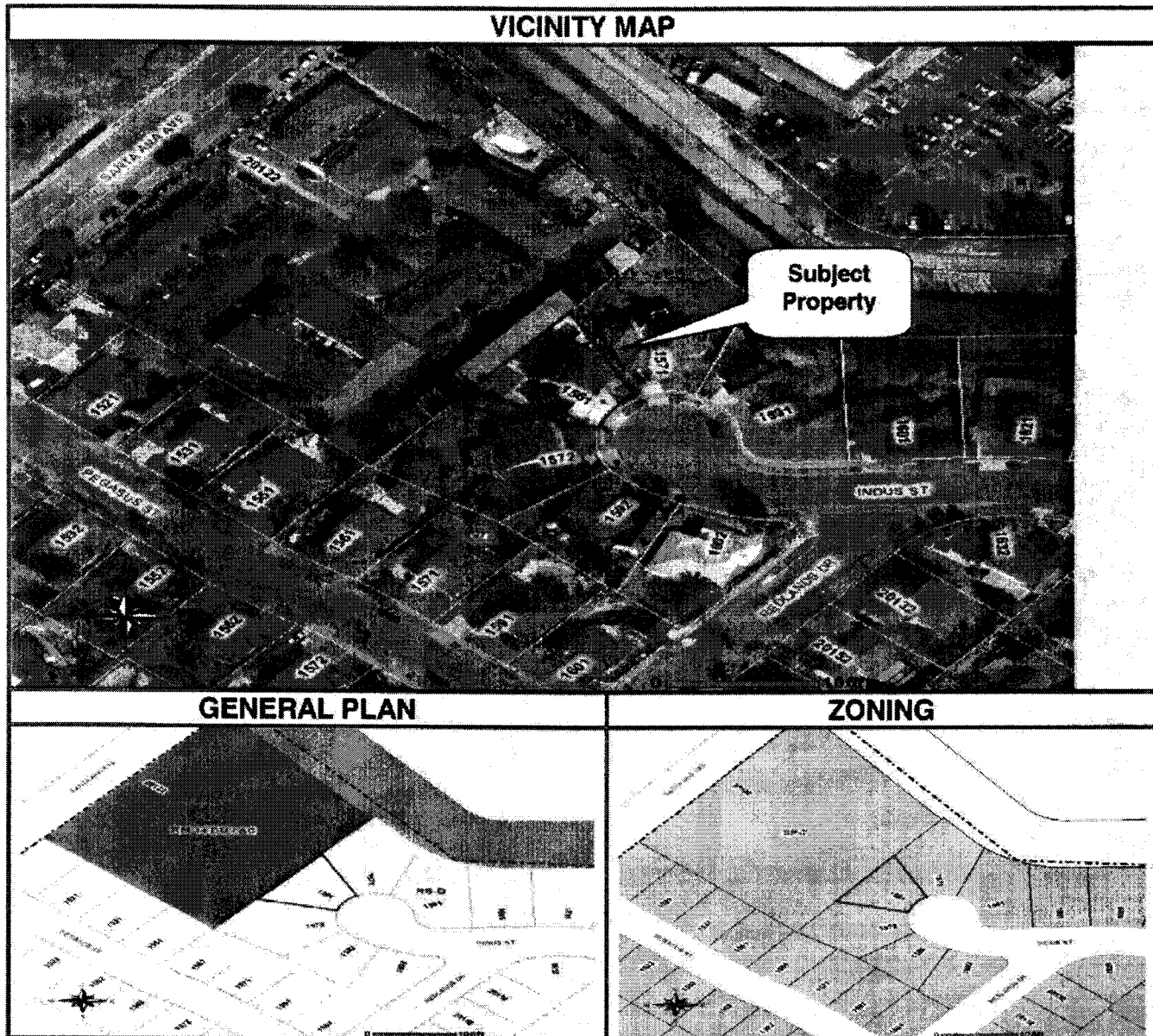
This is a use permit application to allow the continued operation of an existing unlicensed adult residential care facility at 1561 Indus Street providing a sober living environment with a total occupancy of 12 persons. This application has been filed in accordance with Ordinance No. 2008-05, which was adopted by the City Council in January 2008. A reasonable accommodation application has also been submitted requesting:

1. The residents of the facility be treated as a single housekeeping unit as defined in Section 20.03.030 the Newport Beach Municipal Code (NBMC);
2. An exemption from the occupancy restrictions of NBMC Section 20.91A.050, which restricts occupancy to two residents per bedroom plus one additional resident; and
3. An exemption from NBMC Section 20.90.030 that states applications for discretionary approvals, including use permits, are accompanied by a fee as established by resolution of the City Council.

RECOMMENDATION

Staff recommends that the Hearing Officer conduct a public hearing, receive testimony from the applicant, the City of Newport Beach and its legal counsel, and members of the public. At the conclusion of the public hearing, staff recommends the Hearing Officer:

1. Deny the use permit application based on the findings discussed in this report, and provide direction to staff to prepare a resolution of denial with prejudice of Use Permit No. 2008-034.
2. Deny the request for reasonable accommodation for the residents of the facility to be treated as a single housekeeping unit subject to the findings discussed in this staff report.
3. If a use permit is granted for this facility, staff recommends that the requested accommodation for an exemption from the occupancy restrictions of NBMC Section 20.91A.050 be granted as to the current residents. As to future residents of this facility, staff recommends continuance to a date certain pending receipt of additional financial information.
4. Staff recommends a continuance to a date certain for the request for reasonable accommodation for an exemption of the application filing fee requirement pending receipt of additional financial information.



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Single-Unit Residential Detached	SP-7/Residential Single Family	Residential Care Facility
NORTH	Multiple Unit Residential	SP-7/Residential Multiple Family	Apartment Complex
SOUTH	Single-Unit Residential Detached	SP-7/Residential Single Family	Single-unit residential dwellings
EAST	Single-Unit Residential Detached	SP-7/Residential Single Family	Single-unit residential dwellings
WEST	Single-Unit Residential Detached	SP-7/Residential Single Family	Single-unit residential dwellings

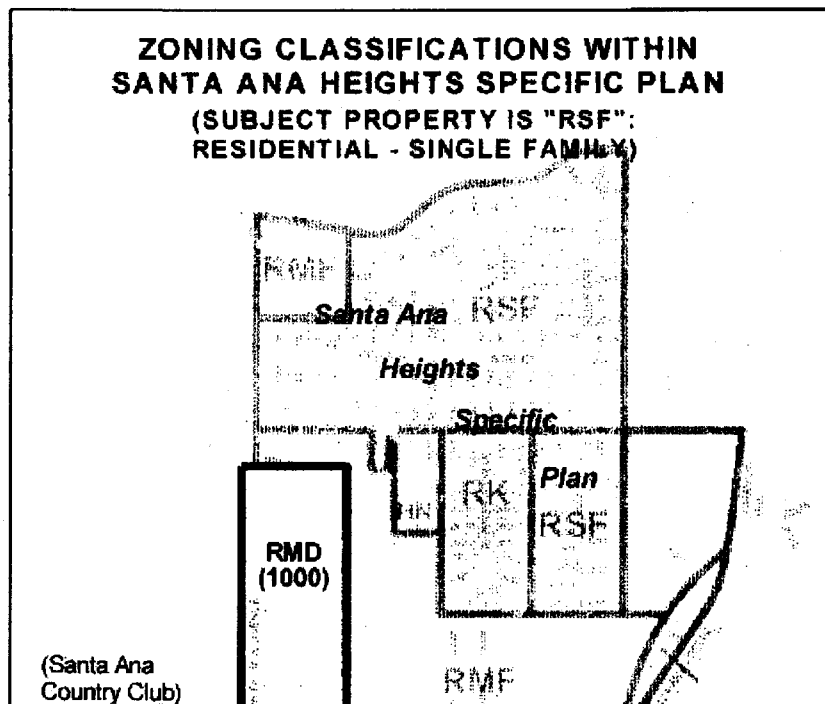
INTRODUCTION

Project Setting

The subject property is located in Santa Ana Heights southeast of the intersection of Santa Ana Avenue and Bristol Street. The property is developed with a two-story single-family residential structure that was originally constructed in 1961, and is located on the westernmost cul-de-sac terminus of Indus Street. The neighborhood consists of single-family tract homes that were constructed at approximately the same time as the subject dwelling. Adjacent to and north of the property is a large apartment complex that fronts Santa Ana Avenue. The subject property is one of four sober living houses in the immediate neighborhood operated by Yellowstone Women's First Step House, Inc.

Zoning

The zoning designation for the property and surrounding area is "SP-7" (Specific Plan District No. 7: Santa Ana Heights). This Santa Ana Heights Specific Plan (SAHSP) is incorporated into the Zoning Code in its entirety (Ch. 20.44). Thus, in the zoning exhibit at the right, the Santa Ana Heights Specific Plan zoning designations are shown faded to denote that the zoning categories shown are not base Zoning Code categories but are instead unique to the Specific Plan.



The subject property is zoned Residential – Single Family (RSF) in the SAHSP. The principle land use allowed in this district is single family residential. The status of group homes as a permitted use under Ordinance No. 2008-05 is addressed later in this report.

Project Description

The subject application is a request for approval of a Group Residential Use Permit to allow the continued operation of an existing adult residential sober living facility for up to 12 females. The facility is currently operated by Yellowstone Women's First Step House, Inc. as an "unlicensed 7 and more" facility. The applicant has also submitted an application for Reasonable Accommodation from the City's zoning and land use

regulations, pursuant to the provisions of Section 20.98 of the NBMC. Specifically, the applicant requests that the residents of the facility be treated as a single housekeeping unit as that term is defined in NBMC Section 20.03.030; that the facility be allowed an occupancy per bedroom that is more than two per bedroom as provided for in NBMC Section 20.91A.050; and that the application fees be waived due to disability-related financial hardship. Pursuant to NBMC Section 20.98.015, if the project for which a request for reasonable accommodation is made required another discretionary permit, in this case a use permit, the applicant may request that the Hearing Officer hear the request for a reasonable accommodation at the same time as the other discretionary permit or approval. The applicant has made such a request, and the following report provides the analyses for a Group Residential Use Permit and Reasonable Accommodation.

BACKGROUND

Ordinance No. 2008-05

In response to a rapidly increasing concentration of Group Residential Uses within the City and the negative secondary impacts these uses potentially can have on residential neighborhoods in which they are located, the City Council adopted Ordinance 2008-05 in January 2008. The ordinance identifies the following adverse secondary impacts that can accompany this type of use:

- Changes in the residential character of the neighborhood
- Noise
- Secondhand smoke
- Profanity and lewd speech
- Traffic congestion
- Excessive trash produced
- Excessive debris on surrounding sidewalks

The ordinance is intended to protect the integrity of the City's residential areas. The fundamental precept of the City's Zoning Code relative to residential zones is that individual dwelling units are intended for the occupancy and use of single housekeeping units. Following adoption of the ordinance, the City changed the way it regulates residential uses that are not single housekeeping units. Group home living arrangements such as boarding houses, rooming houses, dormitories, fraternities and sororities, and other non-single housekeeping units were found to be incompatible with the nature and character of the City's residential districts. Further, consistent with state law, the ordinance prohibits any new group residential care facility that is not a single housekeeping unit to be located in the R-1, R-1.5, R-2 Districts, and where residential uses are provided for in a Specific Plan District. The ordinance exempts only facilities that are licensed by the State of California's Department of Alcohol and Drug Programs ("ADP") for six or fewer residents, and which are not operated integrally with other facilities. Any proposed new facility that is not licensed by ADP for six or fewer residents

and is not a single housekeeping unit must first obtain a use permit and can only be located in a Multi-Family Residential (MFR) District.

Some existing group residential care facilities in the City became nonconforming uses after February 20, 2008, because they were not single housekeeping units and did not have use permits. All existing nonconforming group residential care facilities became subject to the ordinance's use permit process and were required to apply for a use permit by May 22, 2008, to continue operation.

The subject property was annexed to the City January 1, 2008, as part of the West Santa Ana Heights Annexation. Upon annexation, the facility was subject to the land use regulations as well as all Municipal Code regulations of the City, including the provisions of Ordinance No. 2008-05. Under the ordinance, the Yellowstone facility became a nonconforming use in a residentially zoned district. Consistent with the requirements of Chapter 20.91A of the NBMC, the applicant submitted a use permit application to continue the operation of the existing residential care facility located at 1561 Indus Street on May 20, 2008. A copy of the Yellowstone application as submitted is attached as **Exhibit 2**.

In accordance with Section 20.91A.030 of the Newport Beach Municipal Code (NBMC), an application for a use permit in a residential district is required to contain the following information:

- Facility users
- Characteristics of the use
- Transportation and parking
- Location map and site plan
- Similar uses in the vicinity
- Applicant information including license and permit history
- Operations and management plan, including occupancy levels
- Similar operations owned or operated by the applicant

On June 19, 2008, a "Notice of Incomplete Application" was sent to the applicant's authorized agent, Isaac R. Zfaty, attorney, advising of the items that were required and/or deficient in the initial submittal. Correspondence from the applicant indicating that the required materials would be submitted within 21 days was received by the City on July 29, 2008, and subsequent materials were received on August 26, 2008.

Following receipt of the subsequent materials, staff communicated with the applicant by telephone and e-mail, and scheduled a meeting to discuss the applications. The meeting took place on October 8, 2008, in which staff explained the areas of the applications that were either deficient or internally inconsistent within the applications, or appeared to be misstatements of fact. During the meeting, the applicant was given the opportunity to resubmit all or portions of the applications in order to correct the misinformation.

Following the meeting, staff prepared another letter dated November 7, 2008, indicating the items still remaining in order to deem the application complete. A third submittal was received on December 29, 2008. Again, after staff evaluation, it was determined that items within the application were either inconsistent, required clarification, or were otherwise incomplete, and a third letter of incompleteness was sent to the applicant on January 21, 2009. In response to ongoing subsequent communication between the applicant and staff, additional materials were delivered to the City on January 29, 2009, and on February 5, 2009, at which time staff deemed the application complete. The applicant's attorney submitted additional correspondence on February 13, 2009. A copy all correspondence and subsequent submittals are attached as **Exhibit 3**.

DISCUSSION

Description of Project Operations

The Yellowstone facility located at 1561 Indus Street, is also known as "Keystone Manor", and has been in operation since 2007 prior to annexation to the City. Dr. Anna Marie Thames, CEO of Yellowstone, owns the property in fee. This residential care facility is sober living home for 12 women with past alcohol and drug dependence. This residential care facility operates in a two-story single-family dwelling containing five bedrooms, which are occupied as follows:

Current Uses at 1561 Indus Street			
	Bedrooms	Beds/ Room	Beds/ Unit
First Floor	1	2	2
Second Floor	4	2/2 rooms 3/2 rooms	10
Total Bedrooms = 5			
Total Beds = 12			
Total Parking Spaces = 4 (2-car garage & 2 driveway spaces)			

As indicated, staff has made numerous efforts to communicate with the applicant to provide them an opportunity to correct the applications, which are internally inconsistent and to process the applications in order to deem them complete.

The following matrix has been prepared to illustrate the project operations as represented in the applications initially submitted and in subsequent submittals:

Project Operation		Application and Description	
	Date of Submittal	Reasonable Accommodation	Use Permit
Facility Users and Staffing	5-20-08	<ul style="list-style-type: none"> • 18 persons including 2 staff members • Two staff members. No other staff or caretakers that visit on a daily or weekly basis 	<ul style="list-style-type: none"> • 12 persons including 2 staff members • House manager and assistant manager
	1/28/09	E-mail from applicant's attorney provided clarification of 12-bed occupancy for this facility (Exhibit 9).	
Duration of Stay	5-20-08	Six months	365 days
		(Staff was informed verbally that typical stay is 6 months, but some clients have stayed for a year or more.)	
Characteristics of Use/Treatment	5-20-08	<ul style="list-style-type: none"> • Sober living home; no medical care services; no on-site counseling • Residents at this property not allowed on any other properties & no function that includes all residents. 	No alcohol and/or drug recovery or treatment services provided on-site.
	8-22-08	Residents at this property not allowed on any other Yellowstone properties & there are no functions that include all residents.	
	12-23-08	Residents prohibited from being in house between 8 a.m. and 3 p.m., and must return to house by 4 p.m.	
Transportation and Parking	5-20-08	<ul style="list-style-type: none"> • Transportation not provided. • 2-car garage and driveway available for staff and visitor parking. • Residents do not have auto and rely on public transportation or carpooling. • Tenants' vehicles not allowed to be parked or utilized at property. 	<ul style="list-style-type: none"> • Four residents have personal vehicles that are parked only in garage and/or driveway. • Staff vehicles parked in driveway. Clients are allowed to use personal vehicles and/or keep on-site.

Project Operation		Application and Description	
		Reasonable Accommodation	Use Permit
	12-23-08	Per correspondence from attorney: <ul style="list-style-type: none"> • Room for 4 cars to park on site. Residents not permitted to park there; only house manager and assistant manager permitted to park on-site. • Basic transportation provided to treatment facility and St. John Church • Transport van kept in other city when not in use 	
	1-29-09	Per correspondence from attorney: <ul style="list-style-type: none"> • Parking on-site reserved for manager and assistant manager, thus max. number of cars at any time is two. • Residents not permitted to park on property. • Visitors not permitted on property; therefore, no visitor parking issues. • Residents do not use cars. Instead, they rely on public transportation to and from property. • Home does not generally provide transportation services; some basic transport to treatment facility and St. John Church. Morning pick up at 8 a.m. and evening drop off at 4 p.m. 	
License/Permit History (i.e. ADP, DSS) and/or Certification	5-20-08	<ul style="list-style-type: none"> • No license. • Voluntary certification by Orange County Sober Living Coalition 	<ul style="list-style-type: none"> • No license. • Chartered Oxford House
	12-23-08	Per correspondence from attorney: <ul style="list-style-type: none"> • No ADP license • Certified as Oxford Charter House 	
Curfew and Quiet Hours	5-20-08		10 p.m. to 8 a.m. daily
Delivery Information	5-20-08		Trash disposal 1 day/week, no other delivery services provided.
Smoking	5-20-08 8-22-08		Acknowledged requirement to control secondhand smoke. (Smoking not permitted in house; restricted to backyard)

Fire Marshal Review

The Group Residential Use Permit Application also requires the submittal of a fire clearance from the Newport Beach Fire Marshal. The applicant provided a copy of a

Fire Safety Inspection Request that was submitted to Orange County Fire Authority (OCFA) prior to annexation to the City of Newport Beach with the August 22, 2008, supplemental submittal. However, the form was not signed by the OCFA, and further, the property is now under the authority of the Newport Beach Fire Marshal. On December 23, 2008, and again on January 29, 2009, the applicant submitted an analysis prepared by an architect that was submitted to the Fire Marshal. The Fire Marshal has requested clarification on a number of items, but to date a fire clearance has not been issued. If this use permit is granted, condition of approval will be included stating that the use must comply with the requirements of the California Building Code and obtain a fire clearance from the Newport Beach Fire Marshal.

Public Input

Staff has received comments from the public (**Exhibit 6**), including a petition signed by four residents in the neighborhood, stating "Yellowstone is a good neighbor," and several letters from alumni of the facilities expressing their support. Staff has also received letters, e-mails and phone calls from residents in the area expressing specific concerns about the increasing negative secondary impacts on the neighborhood, as follows:

- A concentration of sober living homes in the neighborhood;
- Litter in the neighborhood, including soda cans, cigarette butts, beer bottles and other trash in the streets, sidewalks and parkways;
- The facilities "generate massive amounts of trash;"
- Meetings held regularly at one or more of the applicant's facilities, with outside attendees;
- Loud talking in the streets by meeting attendees late at night following the meetings;
- Family and other guests visiting the facilities;
- Consumption of available on-street parking by facility residents and guests;
- Transport vans parked on the street, and "all over the neighborhood;"
- Facility residents traveling "around the neighborhood in groups as they go from home to home," "often in groups of 3 or 4, with no apparent business or destination;"
- The impact the sober living facilities have on the cost of City services to the facilities; and
- Declining property values in the neighborhood.

About the Public Input

City staff is concerned about the comments from area residents. However, some of the comments should not be factors considered by the Hearing Officer. These include:

- Declining home values. The belief that the presence of recovery facilities is any more impactful on property values than changes in the housing market, long-term rentals, vacation rentals, or other non-single family uses has been challenged nationwide.

- Allegations that recovery homes are a cost burden to the City. There is no evidence to suggest that recovery homes cost the City any more in services than a typical single-family building housing the same amount of people, whether that is in the costs associated with police or emergency medical calls for service.

However, several allegations made by the neighbors are disturbing, and may show the operator's inability to effectively manage the clients in this and the other three facilities in the neighborhood in a manner that is respectful of this residential neighborhood's peace and quiet enjoyment. These include:

- On-site meetings which the operator states do not take place at the facility;
- Loud noise late at night following meetings;
- An apparent lack of adequate on-site supervision during the day and evenings;
- The Influx of visitors' and resident clients' in the neighborhood and use of on-street parking, and resident clients' use of vehicles (Note: The operator states that visitors not permitted on the property; therefore, there are no visitor parking issues. The operation also states that residents do not use cars.)

ANALYSIS

Pursuant to NBMC Section 20.91A.040, the Hearing Officer is designated to approve, conditionally approve or disapprove applications for use permits, and the Hearing Officer's decision may be appealed to the City Council. Pursuant to Section 20.91A.060 of the NBMC, the Hearing Officer shall make certain specific findings before approving or conditionally approving an application for a use permit in a residential district. Should the Hearing Officer make the determination to approve or conditionally approve an application for a use permit, the Hearing Officer may impose conditions suitable to assure compatibility of the proposed use with other uses in the vicinity.

In order to approve or conditionally approve an application for a use permit, the Hearing Officer shall make each of the 11 findings listed in Section 20.91.035 (A) and in Section 20.91A.060 of the NBMC. Failure of the Hearing Officer to make one or more of these findings shall constitute grounds to deny the use permit application.

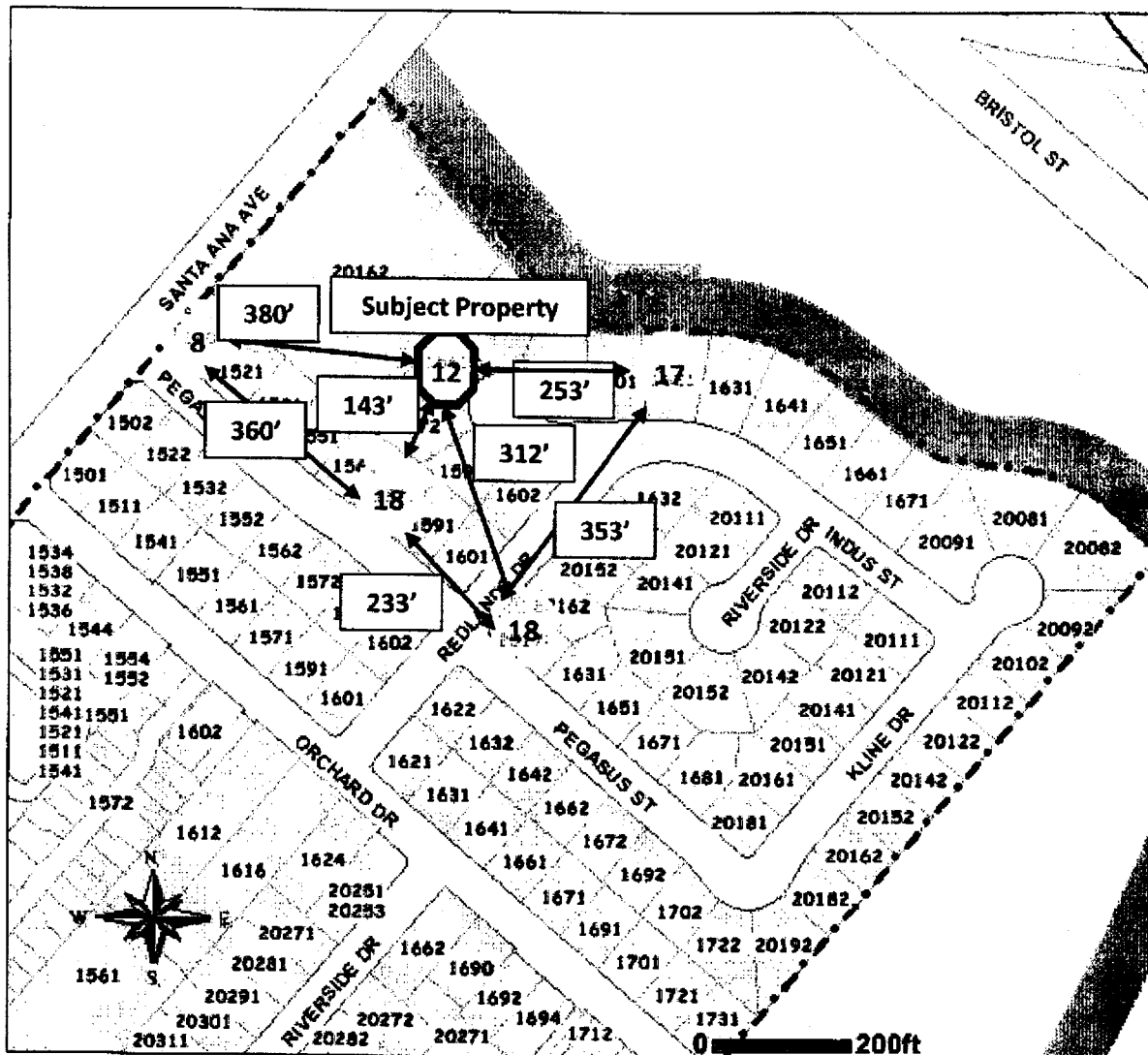
For ease of review, and to eliminate redundant statements in each finding, staff has prepared a Findings Chart (**Exhibit 1**) that:

- Cites each finding by section;
- Explains each finding in general terms;
- Describes if the finding can be made with this facility without conditions; and, if not
- Describes if the finding can be made with this facility with conditions.

The Findings Chart shows the findings that are required to be made in order for the use permit to be granted, and the areas for which the findings cannot be made. These four areas, and a discussion about each, follow.

Concentration of Uses

As the map below shows, about 73 group residential beds are in this neighborhood.



As noted earlier in this report, Yellowstone operates three other sober living facilities in the neighborhood (distances below measured in a straight line from the nearest property line):

- 20172 Redlands Drive (18 residents), about 312 feet away;
- 1621 Indus Street (17 residents), about 253 feet away;
- 1571 Pegasus Street (18 residents), about 143 feet away; and in addition
- 1501 Pegasus (8 female residents) is about 380 feet away and is operated by another provider (Lynn House).

In adopting Ordinance No. 2008-05 the City made a number of findings including Finding No. 16 which states that *"community residences should be scattered throughout residential districts rather than being concentrated on any single block or in any single neighborhood."* The ordinance defines a "block" as *"an area of land that is bounded on all sides by streets...or by streets and a cul-de-sac or by any other form of termination of the street."* In the case of the subject property, it is in a neighborhood that is not characterized by a typical grid street pattern; but instead has meandering streets and cul-de-sacs. The ordinance recognizes that there are instances when the lack of a straight-line grid pattern street will make it difficult to exactly define a block; and also recognizes that blocks throughout the City are not always uniform in size. In those instances, Code Section 20.91A.060.D.3 provides that the Hearing Officer may apply the American Planning Association (APA) standard of 617 feet (median) or 711 feet (average) in determining the block size and configuration.

Given the close proximity of this facility to the other similar uses located within the same neighborhood, it is critical to define "block" in this particular case. If the APA standard is used, and the median block length of 617 feet applied, the five residential care facilities would all fall within a single block area. Therefore, the subject property is located within a block and in close proximity to the other four residential care facility uses with a combined total of 73 clients in the neighborhood. In staff's opinion, the presence of five residential care facilities in very close proximity to each other is an overconcentration, and two of the four Yellowstone homes should be closed.

Assembly Uses and Parking

Residential care facilities may conduct meetings on-site, such as Alcoholics Anonymous (AA) meetings, for the residents who live on-site only. However, the NBMC does not allow the hosting of AA or similar type meetings for individuals who do not reside in the facility. The facilities may be used for residential use by the residents only. Correspondence submitted by residents within the neighborhood states that there are meetings held at the subject facility that involves persons other than the residents and that there is an influx of vehicles using on-street parking during these times, leaving little or no parking for the residents of the neighborhood. The applicant has stated that no such meetings occur.

Staff is concerned about allegations from the neighbors regarding visitors during evening hour meetings and on weekends, and the impact on parking and additional traffic generated from these visitors to the surrounding neighborhood. If the use is approved, staff recommends conditions of approval that prohibits meetings on-site, restricts the allowance of vehicles to two staff members only, and requires staff parking on-site in the garage, reserving the driveway for visitor parking.

Traffic and Generated Trips

The Institute of Transportation Engineers (ITE) establishes and publishes standards for trip generation rates based on the use classification of a site. In the case of a single

family dwelling, the standard trip rate is based on 9.57 average daily trips per dwelling unit. Trip rates for residential care facilities (also classified as an "assisted living" use by ITE) are based on 2.74 average daily trips per each occupied bed. Staff recognizes that the use pattern of an assisted living or residential care facility is similar, but not identical to a sober living facility. However, the trip generation rates established by ITE for residential care facilities are the closest land use classification to a sober living home.

Based on the ITE standards, a single-family dwelling would generate approximately 10 average daily trips (rounded up), whereas a 12-bed residential care facility would generate approximately 33 average daily trips.

Maximum Number of Residents

NBMC Section 20.91A.060.C.2 states that a maximum number of residents for any group home shall not exceed a standard of two residents per bedroom plus one additional resident. The subject property has five bedrooms, which results in the maximum number of residents allowed to be eleven. As indicated on the application, the applicant requests a total occupancy of 12 resident beds.

Pursuant to NBMC Section 20.91A.060.C.2, the Hearing Officer has discretion to set occupancy limits based upon the evidence provided by the applicant that additional occupancy is appropriate at the site. In determining whether to set a different occupancy limit, the Hearing Officer *"shall consider the characteristics of the structure, whether there will be an impact on traffic and parking and whether the public health, safety, peace, comfort, or welfare of persons residing in the facility or adjacent to the facility will be impacted."*

In determining whether the findings can be made to allow an occupancy of 12 residents, staff considered evidence submitted by the applicant, as well as the size of the structure, parking, traffic generation, and impacts on adjacent and surrounding land uses. Based on the plans submitted, the total living area is 3,197 square feet, and there appears to be adequate room to allow one occupant more than allowed per the code.

The applicant has stated that only the manager and assistant manager have vehicles, which are parked in the two-car garage or on the driveway, and residents are not permitted to have vehicles. Therefore, sufficient parking appears to be provided on-site. Traffic and parking impacts described by residents in the neighborhood may not be directly related to this specific facility. However, due to the fact that the property is located on a cul-de-sac and the pie-shaped configuration of the lot, there is limited or no on street parking in front of the facility. Staff believes the applicant has provided adequate documentation for the Hearing Officer to make the necessary findings to grant an increase in occupancy. If the use is approved, staff recommends a condition of approval that allows a maximum occupancy of 12 residents, restricts the allowance of vehicles to two staff members only, and requires staff parking on-site in the garage, reserving the driveway for visitor parking.

Required Findings

Pursuant to Ordinance No. 2008-05, the Hearing Officer shall make all of the 11 required findings per NBMC Sections 20.91.035 (A) and 20.91A.060. The required findings, and discussion of each finding are as follows:

NBMC Section 20.91.035 (A) Findings 1 through 4:

1. **Finding: That the proposed location of the use is in accord with the objectives of this code and the purposes of the district in which the site is located.**

The use is only partially in accord with the objectives of this code and the purposes of the district in which the site is location, and therefore; this finding cannot be made for the following reasons:

The subject property is located within the Santa Ana Heights Specific Plan (SP-7) area and is designated for Residential Single-Family (RSF) uses. The proposed use as a residential care facility is a nonconforming use. Nonconforming uses in a residential district are subject to the provision of Chapter 20.91A of the NBMC. The proposed application for Use Permit 2008-034 is in accord with the objectives and requirements of Chapter 20.91A with respect to the requirement for the submittal of an application for approval of a use permit to continue the use of the subject property as a residential care facility in the SP-7/RSF District.

The objectives of the code include provisions intended to reduce, through the use permit process, the potential for overconcentration of residential care facilities within a neighborhood and to protect public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use.. However, the subject property's proximity to other group residential uses, all located close to each other, would result in an overconcentration of group residential uses/residential care facilities within the neighborhood. Therefore, this finding cannot be made.

2. **Finding: That the proposed location of the use permit and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the city.**

The location of the proposed use is not consistent with the General Plan. However, the use if approved with conditions, will be consistent with the

purpose of the district in which the site is located. This finding cannot be made for the following reasons:

General Plan Policy LU 6.2.7 directs the City to regulate day care and residential care facilities to the maximum extent allowed by federal and state law so as to minimize impacts on residential neighborhoods. Approval of a use permit for the facility would include conditions of approval regulating the use and operational characteristics related to parking, traffic, curfew hours, and on-site meetings. As stated, the facility is located in a neighborhood in which there are currently four other residential care facilities in close proximity, which constitutes an overconcentration of residential care facilities in the immediate vicinity. Therefore, staff believes that the continued use of this property as a residential care facility, if approved, would be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing in the neighborhood, and is contrary to the intention of Ordinance No. 2008-05. This finding cannot be made.

3. **Finding: That the proposed use will comply with the provisions of this code, including any specific condition required for the proposed use in the district in which it would be located.**

As noted in Finding No. 2 above, the proposed use would not be consistent with the provisions of NBMC Section 20.91A.060.D in that the facility is located in a neighborhood in which there are currently four other residential care facilities. Therefore, this finding cannot be made.

4. **Finding: If the use is proposed within a Residential District or in an area where residential uses are provided for in Planned Community Districts or Specific Plan Districts, the use is consistent with the purposes specified in Chapter 20.91A and conforms to all requirements of that Chapter.**

One of the stated purposes of NBMC Section 20.91A.010.B is: *"To protect and implement the recovery and residential integration of the disabled, including those receiving treatment and counseling in connection with dependency recovery. In doing so, the City seeks to avoid the overconcentration of residential care facilities so that such facilities are reasonably dispersed throughout the community and are not congregated or overconcentrated in any particular area so as to institutionalize that area."* As noted in Finding No. 2 above, the proposed use would not be consistent with this purpose in that the facility is located in a neighborhood in which there are currently four other residential care facilities. Therefore, this finding cannot be made.

NBMC Section 20.91A.060 Findings A through G:

- A. **Finding: The use conforms to all applicable provisions of Section 20.91A.050. These development and operational standards are summarized as follows:**

- a. **No secondhand smoke can be detectable outside the property.**
- b. **Facility must comply with state and local law, and the submitted management plan, including any modifications required by this use permit.**
- c. **A contact name and number must be provided to the City**
- d. **No services requiring a license can be provided if the facility does not have a license for those services.**
- e. **There shall be no more than two persons per bedroom plus one additional resident, unless a greater occupancy is requested and granted. Occupancy must also comply with State licensing if applicable.**
- f. **If certification from an entity other than ADP's licensing program is available, applicants must get that certification.**
- g. **All individuals and entities involved in the facility's operation and ownership must be disclosed.**
- h. **No owner or manager shall have any demonstrated pattern of operating similar facilities in violation of the law.**

The use, if approved subject to conditions included with the use permit, will conform to the standards set forth in Section 20.91A.050, and this finding can be made as follows:

- a. **Smoking is permitted only in the rear yard and patio area. Given the size of the lot and the proximity of the surrounding residential uses, it is unlikely that secondhand smoke can be detected outside the property, and no complaints have been submitted by adjacent neighbors regarding secondhand smoke.**
- b. **The facility has been in operation since 2007, and the applicant has submitted documentation that the facility has never been cited by a state or local agency as violating any of those agencies laws or regulations.**
- c. **Contact names and telephone numbers have been provided within the application. Approval of a use permit for the facility would include a condition of approval requiring the applicant to provide the City with the appropriate "after hours" names and contact information numbers.**

- d. The residential care facility is used for housing purposes only and is not licensed for on-site treatment. All treatment services are provided at a site that is located approximately two and a half miles from the site in Costa Mesa, and transportation to the site is provided by van three days a week. Approval of a use permit for the facility would include a condition of approval limiting attendance of any type of meeting on-site to residents who reside on-site only.
- e. The unlicensed residential care facility has five bedrooms and there is a total occupancy of 12 residents. Therefore, the facility exceeds the standard of two persons per bedroom plus one additional resident by one, and does not comply with this operational standard. While this is in excess of the Code standard, staff does not consider this to be excessive in terms of traffic and parking impacts to the surrounding neighborhood.
- f. The facility is certified as an Oxford House Charter, and the applicant has provided proof of that certification.
- g. The applicant has provided all names of those involved in the facility's operation within the application.
- h. There are no known violations or code violations for the facility or the individual operators and managers.

B. Finding: The project includes sufficient on-site parking for the use, and traffic and transportation impacts have been mitigated to a level of insignificance.

The NBMC requires off-street parking and loading spaces for a residential care facility at a ratio of one space for every three beds. The project site has an enclosed two-car garage and a driveway is that 26 feet deep, providing a total four off-street parking spaces, and therefore meets the NBMC requirements for off-street parking (1:3 or one space per three recovery beds).

Van transportation to an off-site treatment facility and to a church is provided approximately three to four times a week, and residents utilize public transit for commuting to work (an OCTA bus stop is located on Santa Ana Avenue within walking distance).

With respect to traffic generation, the facility itself does not present an adverse impact to the neighborhood. However, staff is concerned about the comments from the area residents regarding the traffic and parking impacts from family and other visitors to the site during evening hours and on weekends, which results in cars parked throughout the vicinity. The project site is located at the end of a cul-de-sac, and the lots are pie-shaped, with smaller street frontages than other lots within the tract. Further complicating the on-street parking issue for the cul-de-

sac lots is the fact that the driveway cuts/aprons do not leave ample space for the parking of vehicles directly in front of the houses. Other lots located in the tract have room to park two to three cars directly in front of the houses. Staff notes that five group residential uses with a total of 73 residents exist in this neighborhood.

In summary, while the facility does provide sufficient off-street parking for management and residents, the traffic and parking impacts on the surrounding neighborhood cannot be mitigated to an insignificant level, particularly given the limited parking due to the location of the site on a cul-de-sac, and due to the presence of other group care homes in close proximity to the subject property. Therefore, this finding cannot be made.

C. Finding: The property and existing structures are physically suited to accommodate the use.

The use is in conformance with the requirements of this finding, and subject to appropriate conditions of approval, this finding can be made for the following reasons:

The subject property is approximately 7,500 square feet in area and the structure consists of approximately 3,197 square feet of living area with a total of five bedrooms. The size of the structure appears adequate to accommodate the use as a residential care facility with 12 beds.

The City of Newport Beach Fire Department is the responsible agency for implementing fire protection of all group residential care facilities and residences. As discussed above, the property has not received a "fire clearance" from the Newport Beach Fire Marshal. Therefore, if the Hearing Officer approves the application, staff recommends that a condition of approval be included that provides that the use is approved subject to the approval by the Newport Beach Fire Marshal.

D. Finding: The use will be compatible with the character of the surrounding neighborhood, and the addition or continued maintenance of the use will not contribute to changing the residential character of the neighborhood, such as creating an overconcentration of residential care uses in the vicinity of the proposed use. In making this finding or sustaining such a finding, the Hearing Officer shall consider, as appropriate, the following factors:

- a. **The proximity of the use location to schools, parks, other residential care facilities, outlets for alcoholic beverages and any other uses which could be affected by or affect the operation of the subject use;**

- b. **The existence of substandard physical characteristics of the area in which the use is located such as lot widths, setbacks, narrow streets, limited available parking, short blocks, and other substandard characteristics which are pervasive in certain areas of the City of Newport Beach, including portions of West Newport, Lido Isle, Balboa Peninsula, Balboa Island, Corona del Mar and Newport Heights, which portions were depicted on a map referred to as the Nonstandard Subdivision Area presented to the Newport Beach Planning Commission on September 20, 2007 and on file with the Director of Planning; and**
- c. **Whether, in light of the factors applied in subsections 20.91A.D.1 and D.2, it would be appropriate to apply the American Planning Association standard of permitting one or two such uses per block. Median block lengths in different areas of Newport Beach widely range from 300 feet in the Nonstandard Subdivision Areas to as much as 1,422 feet in standard subdivision areas. The average calculable block length in much of the standard subdivision areas is 711 feet and the calculable median block length is 617 feet. The Hearing Officer shall apply the American Planning Association standard in all areas of Newport Beach in a manner that eliminates the differences in block lengths. In making this determination, the hearing officer shall be guided by average or median block lengths in standard subdivisions of the City. The Hearing Officer shall retain the discretion to apply any degree of separation of uses, which he or she deems appropriate in any given case. A copy of the American Planning Association standard is on file with the Director of Planning.**

The project site is located within an established single-family residential neighborhood consisting of one and two story tract homes. There are no public or private schools, or public parks located within close proximity to the site. The closest elementary school is Kaiser Elementary School, which is located approximately two miles to the south, and Brentwood Park located approximately one and a half miles to the south. Facilities licensed to sell or serve alcohol located within three blocks of the project site include a 7-11 Store and a Mexican restaurant on the southeast corner of Santa Ana Avenue, and an AM/PM Service Station and Market on the northeast corner of Santa Ana Avenue. Those facilities are located within the City of Costa Mesa, approximately 2,000 feet or more walking distance from the subject property.

The subject property is located in a neighborhood that is not characterized by standard physical characteristics such as a typical street grid pattern; but instead has meandering streets and cul-de-sacs. The ordinance recognizes that there are instances when the lack of a straight-line grid pattern street will make it difficult to exactly define a block; and also recognizes that blocks through out the

City are not always inform in size. In those instances, Code Section 20.91A.060.D.3 provides that the Hearing Officer may apply the American Planning Association (APA) standard of 617 feet (median) or 711 feet (average) in determining the block size and configuration.

Given the close proximity of this facility to the other group residential uses located within the same neighborhood, it is critical to define "block" in this particular case. If the APA standard is used, and the median block length of 617 feet applied, several of the houses would all fall within a single block area, because the maximum distance between the houses is less than 600 feet. Therefore, the subject property is located within a block and a neighborhood with five group homes and a total of 73 residents. In staff's opinion, the presence of this many residential care facilities in very close proximity to each other is an overconcentration and the use of the subject property as a residential care facility results in an overall adverse impact on the neighborhood and will not be compatible with the character of the surrounding neighborhood. Therefore, this finding cannot be made.

- E. Finding: The operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than that normally generated by residential activities in the surrounding area.**

Other than the resident manager, residents of the facility do not have automobiles, and utilize public transit from an OCTA bus stop located on Santa Ana Avenue. Vans are used to transport residents to a treatment facility and to a church approximately three to four times a week. It is staff's opinion that the traffic generated from these van trips is not excessive. Therefore, this finding can be made.

- F. Finding: Arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties.**

Deliveries to the residences are typical of the normal use of the property for residential purposes. Shopping is done by management staff and delivered to the house during normal daytime or early evening hours. Therefore, staff believes that this finding can be made.

- G. Finding: Arrangements for commercial trash collection in excess of usual residential collection are made within hours that are compatible with and will not adversely affect the peace and quiet of neighboring properties.**

The facility utilizes the regularly-scheduled Costa Mesa Sanitary District residential refuse collection services provided throughout the neighborhood. Neighborhood complaints about excessive trash need to be evaluated further – in

the event that the once-a-week trash service does not adequately serve this facility, City staff suggests a condition allowing the City's Planning Director to require the facility to secure and maintain commercial bin service. With this condition, this finding can be made.

Analysis Summary

As indicated at the beginning of this report, staff recommends denial of this Use Permit application for the following reasons:

1. Inability to make all of the findings required by the NBMC Sections 20.91.035 (A) and 20.91A.060.
2. The proposed use is not consistent with the purposes of NBMC Section 20.91A as set forth in Section 20.91A.010, and the requirements of Section 20.91.020.
3. There are inconsistencies and/or factual misrepresentations in the application documentation.

This recommendation is based on analysis of the proposed project's submitted documentation, review of the property setting, apparent documentation contradictions and/or misrepresentations, and staff's conclusion that the required findings from NBMC Section 20.91.035 (A) Findings Nos. 1, 2, 3 and 4 cannot be made, that the required findings from NBMC Section 20.91A.060 Findings B and D cannot be made.

If, after reviewing this report, and hearing testimony from the applicant, the Hearing Officer agrees with staff's recommendation for denial, staff requests the Hearing Officer's direction to prepare a resolution for denial for adoption at a time and date set by the Hearing Officer.

APPLICATION FOR REASONABLE ACCOMMODATION

BACKGROUND

On May 20, 2008, the applicant submitted an Application for Reasonable Accommodation (Exhibit 2) that discussed the need for accommodation, but did not seek exemption from any specific City rule, policy or practice.

On August 22, 2008, the applicant submitted an Application for Reasonable Accommodation that requested an exemption "from single family to multi-family residence." (Exhibit 7) The applicant also indicated the need for an accommodation from the required use permit fee due to financial hardship. Upon request for clarification and additional information from staff, the applicant's attorney submitted a supplemental request for accommodation from specific provisions of the Newport Beach Municipal Code ("NBMC") on January 29, 2009. (Exhibit 8) The three specific accommodations requested are:

1. That the residents of the Yellowstone facility at 1561 Indus Street be treated as a single housekeeping unit, as the term is defined in NBMC Section 20.03.030 of the Newport Beach Municipal Code;
2. An exemption from the occupancy restrictions of NBMC Section 20.91A.050, which requires that use permits granted to residential care facilities restrict facility occupancy to no more than two residents per bedroom plus one additional resident;
3. An exemption from the City's requirement that all use permit applicants pay a use permit application fee to permit cost recovery by the City. (NBMC Chapter 3.36 and NBMC Section 20.90.030)

NBMC Section 20.98.015 provides that if the request for a Reasonable Accommodation requires another discretionary permit, the applicant may request a simultaneous hearing. In this case, the use of the property as a residential care facility does require a use permit, and the applicant has requested simultaneous hearing of both the use permit application and the various requests for reasonable accommodation.

DISCUSSION

The federal Fair Housing Amendments Act (FHAA), adopted in 1988, prohibit housing discrimination based on a resident's disability. Under the FHAA, it is discriminatory for government entities to refuse to make reasonable accommodations from rules, policies, and practices when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling (42 U.S.C. § 3604(f)(3)(B)).

Cases interpreting the FHAA have held that a government agency has an affirmative duty to grant a requested reasonable accommodation if: (1) the request is made by or

on behalf of a disabled individual or individuals, (2) the accommodation is necessary to afford the disabled applicant an equal opportunity to use and enjoy a dwelling, and (3) the request is reasonable.

Cities may find an accommodation request unreasonable if granting the request would: (1) result in a fundamental alteration in the nature of a City program (often described as undermining "the basic purpose which the requirement seeks to achieve"), or (2) would impose undue financial or administrative burdens on the city (See *U.S. v. Village of Marshall*, 787 F.Supp. 872, 878 (W.D. Wisc. 1991)).

Whether a requested accommodation is reasonable and necessary must be determined on a case-by-case basis. *Because the applicant has requested three very different types of reasonable accommodation, staff will present a separate analysis of each specific accommodation request.*

Reasonable Accommodation Analysis No. 1 – Request to be Treated as a Single Housekeeping Unit

In the January 29, 2009 letter clarifying applicant's request for reasonable accommodation, the applicant requested its facility be treated as a Single Housekeeping Unit, as that term is defined in NBMC Section 20.03.030. The applicant said the accommodation requested is necessary because the facility "is not transient or institutional in nature such that it fits the definition of a non-licensed residential care facility." The applicant stated:

"[T]he Property more accurately fits the definition of a Single Housekeeping Unit as the term is defined in Section 20.03.030. Residents are the functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit. Like a Single Housekeeping Unit, there is a common area and each resident is responsible for their own meals, expenses and chores . . . The sole purpose of each resident living on the Property is to live in a house with other sober individuals with similar disabilities. Also, the makeup of the Property is determined by the residents of the unit rather than the property manager."

Ordinance No. 2008-05 codified the procedures for requesting, reviewing and granting, conditionally granting, or denying all requests for reasonable accommodation in the City of Newport Beach. The Hearing Officer is designed to approve, conditionally approve, or deny all applications for a reasonable accommodation. The ordinance also established required findings and factors the Hearing Officer may consider when making those findings.

Pursuant to Section 20.98.025(B) of the NBMC, the written decision to approve, conditionally approve, or deny a request for reasonable accommodation shall be based on the following findings, all of which are required for approval.

1. *Finding: That the requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.*

This finding can be made. The applicant submitted a statement signed under penalty of perjury that every resident of the facility is in recovery from alcohol addiction. Federal regulations and case law have defined recovery from alcoholism and drug addiction as a disability, because it is a physical or mental condition that substantially impairs one or more major daily life activities.

2. *Finding: That the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.*

This finding cannot be made. Staff does not question the need for sober living homes, nor the fact that persons with a disability must have the opportunity to use and enjoy a dwelling. However, the exemption requested by the applicant is unnecessarily broad to achieve the goal of providing disabled housing. As staff informed the applicant's counsel, a request to be considered a Single Housekeeping Unit is essentially a request to be exempted from *all* of the provisions of Ordinance 2008-05 which place *any* sort of reasonable regulation on the operations of residential care facilities. This is not necessary, because there are many more narrowly tailored accommodations that could enable facility residents to enjoy the housing of their choice without depriving the surrounding neighborhood of reasonable conditions that mitigate the adverse secondary impacts that emanate from this facility.

Applicant's counsel asserts in his January 29, 2009 letter that being treated as a Single Housekeeping Unit is necessary "because the Property is not transient or institutional in nature such that it fits the definition of a non-licensed residential care facility."¹ Even if the facility were not transient or institutional in nature, and did not clearly fit the definition of a sober living home, or unlicensed residential care facility, an exemption from the provisions of 2008-05 is not necessary to afford its residents the opportunity to live in and enjoy a dwelling.

However, the applicant raised the issue of how the facility should be characterized in its necessity argument, and asserted the facility more closely resembles a Single Housekeeping Unit than any other type of residential use. Staff has analyzed the facility's appropriate use classification based on the applicant's submitted materials.

¹ The residents are recovering alcoholics living together in order to maintain their sobriety. Therefore, the facility closely fits the profile of a sober living home, or unlicensed recovery facility, contrary to applicant's counsel's assertions. Whether the facility is transient or institutional in nature does not enter that analysis, although staff believes there is a strong argument that the existence of the three additional facilities owned and operated as sober living homes by the applicant within 100 to 300 feet of each other does create a quasi-institutional environment.

Staff has determined the nature of applicant's facility operations, as reported in the original application for reasonable accommodation submitted in May 2008, most closely resembles a boarding house use. But for the fact residents are recovering alcoholics, the facility would be classified as a prohibited Group Residential use, or a Boarding or Rooming House as that term is defined in NBMC 20.05.030. (Residential Use Classifications) ("A residence or dwelling unit, or part thereof, wherein a room or rooms are rented under two or more separate written or oral rental agreements, leases or subleases or combination thereof . . .")

On the May 2008 application for reasonable accommodation, the applicant states, "The residents at the property reside separately at the property and interact within the property. There is individual use of common areas. The residents are responsible for their own meals, expenses and chores. *Each individual resides at the property subject to a separate contractual arrangement with the applicant.*" (Italics added)

In a follow-up conversation with staff, applicant's CEO, Dr. Anna Thames stated that the facility has no written leases with any of the residents. Rental agreements with residents are verbal. Again, the description of operations is much closer to the NBMC's definition of a boarding house or group residential use than a single housekeeping unit, as the NBMC's definition of Single Housekeeping Unit requires dwellings rented to bona fide Single Housekeeping Units to be occupied under a single written lease.

The self-reported pattern of facility operations and resident interaction in no way resembles the NBMC definition of a Single Housekeeping Unit. NBMC Section 20.03.030 (Definitions) defines as Single Housekeeping Unit as:

"The functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses, and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager."

Applicant's resident clients may be an interactive group of persons jointly occupying a single dwelling unit who share common areas, but the applicant's own submittals indicate there is no joint responsibility for meals or expenses, no single written lease (or any written leases at all), and the makeup of the household is determined by the applicant rather than the residents.

Staff is troubled by the contradictory information submitted regarding whether the facility operator or the residents determine the household makeup. Given that both the May 20, 2008 reasonable accommodation application and the applicant's CEO stated that the applicant determines the household makeup, applicant's counsel's assertion in the

January 29, 2009 letter that "the makeup of the Property is determined by the residents of the unit rather than the property manager" is difficult to accept. The remainder of the applicant's presentation regarding classification as a "Single Housekeeping Unit" suffers from the inconsistency in the information it submitted to the City.

After the inconsistency was pointed out to applicant's counsel by staff, counsel submitted additional correspondence dated February 13, 2009, (Exhibit 10) addressing the discrepancy which staff believes still exists.

NBMC Section 20.98.025(C) allows the City to consider the following factors in determining whether the requested accommodation is necessary to provide the disabled individual an equal opportunity to use and enjoy a dwelling:

A. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.

If the requested accommodation is granted, any number of the applicant's current and potential clients will be able to live in a home in a single-family zone with other recovering alcoholics. This is a situation that can affirmatively enhance the quality of life of a person in recovery from addiction, unless overcrowding of the facility or institutionalization of the neighborhood interferes with the residents' re-integration into society. The applicant's sliding scale of rental rates offers a sober living environment to residents who might not otherwise be able to afford to live in a single-family home in this area.

B. Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation.

As stated above, the exemption requested by the applicant is broader than necessary to achieve the goal of enabling disabled individuals an equal opportunity to enjoy the housing type of their choice. City staff discussed more narrowly tailored exemptions that could enable disabled individuals to reside at the applicant's facility, but the applicant has chosen to retain this request.

C. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants.

The applicant does not state why being treated as a Single Housekeeping Unit is necessary to make its facilities viable in light of the current market for the type of services it provides. In relation to Reasonable Accommodation Request #2, the applicant states that each facility requires 15 residents in order to be financially viable, and provides a general summary of average income and expenses for all four facilities. In light of the analysis performed in full in Reasonable Accommodation Request #2, Finding 2, Section C below, the evidence does not lead to the conclusion that being

treated as a Single Housekeeping Unit is necessary to make applicant's facilities financially viable.

D. *In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.*

In 2007, City staff estimated that there were more than 315 sober living beds in the city (these are exclusive of the up to 213 ADP-licensed treatment beds). These numbers were compiled before applicant's facilities, with a total of 58 sober living and eight staff beds, were added to the city's supply. Operators of many sober living facilities within the city have reported decreased census and vacant beds, which could provide potential Yellowstone clients with an equal opportunity to live in a sober living environment without granting the accommodation. Further, a recent agreement with Sober Living by the Sea, Inc., authorized SLBTS to provide up to 204 beds citywide. However, many of these alternate sober living beds are probably not offered on a sliding fee scale based on ability to pay. The evidence does not support the applicant's contention that treating residents of its facility as a Single Housekeeping Unit will change the availability of the existing supply of facilities of a similar nature, or afford them a substantially greater access to an equal opportunity to live in a residential setting.

Even if the applicant provides housing for the disabled, and even if the requested accommodation is necessary, the City is not required to grant a request for accommodation that is not reasonable. Cities may find a requested accommodation unreasonable if it either (1) imposes an undue financial or administrative burden on the city, or (2) results in a fundamental alteration in the nature of a city program, often described as undermining "the basic purpose which the requirement seeks to achieve."

3. *Finding: That the requested accommodation will not impose an undue financial or administrative burden on the City as "undue financial or administrative burden" is defined in Fair Housing Laws and interpretive case law.*

This finding can be made. Treating the facility as a Single Housekeeping Unit would not impose a currently identifiable undue financial or administrative burden on the City. However, staff makes this finding with caution, because the applicant is requesting similar accommodations at each of its facilities. If this reasonable accommodation request were granted for all four Yellowstone facilities, the applicant would be able to house a number of residents far in excess of the 66 individuals currently residing in the four homes. Currently unidentifiable financial or administrative burdens could arise as a result.

4. *Finding: That the requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program, as "fundamental alteration" is defined in Fair Housing Laws and interpretive case law.*

This finding cannot be made. The purpose of the NBMC's definition of Single Housekeeping Unit is to allow staff to determine whether groups of related or unrelated individuals are living together in a dwelling as a single housekeeping unit. This definition is necessary because of the persistent attempts by landlords to establish illegal boarding houses in dwellings within the City.

Groups living as a single housekeeping unit can live together in any residential zone in Newport Beach. Groups not living as a single housekeeping unit are prohibited from establishing residences in any of the City's residential zones. There is, however, an important exception to the total prohibition of groups not living as a single housekeeping unit -- groups not living as a single housekeeping unit in residential care facilities of any size.

Essentially, all residential care facilities in the City have *already* received a reasonable accommodation from the NBMC's restrictions on groups not living as a single housekeeping unit. The NBMC provides many opportunities for new facilities to establish, and has provisions for existing facilities to continue in their current locations with appropriate impact mitigation. Licensed facilities housing six or fewer residents can establish in any residential zone of the City.

Although the residents of residential care facilities receive preferential treatment because of their disabled status, the NBMC's Zoning Code also applies regulations to unlicensed and larger (more than seven residents) licensed facilities. These regulations are in place to ensure that the fundamental purposes of the Zoning Code can be achieved, and so the adverse secondary impacts higher density residential care facilities have on the surrounding neighborhood can be mitigated.

If the facility is treated as a Single Housekeeping Unit, it is entirely exempt from any of the reasonable controls the City might place on it. The City would be unable to make any reasonable effort to reduce the adverse secondary impacts such as noise, overcrowding, and unruly behavior by residents of applicant's facility to the detriment of neighbors, in addition to finding solutions to the applicant's disproportionate consumption of available on-street parking, and the overconcentration of facilities within a single block to the point of creating a quasi-institutional environment in this neighborhood. It is highly likely that most other similar facilities within the City would request a similar exemption, thus nullifying the Ordinance's effect entirely.

Pursuant to Section 20.98.025(D) of the NBMC, the City may also consider the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City's zoning program:

A. *Whether the requested accommodation would fundamentally alter the character of the neighborhood.*

Staff acknowledges that a petition stating, "Yellowstone is a good neighbor" was presented to the City, signed by four residents of Pegasus Street (where one of the

other facilities of applicant is located). However, these signatures of support were countered by letters, emails and phone calls from neighbors of the facilities that reported increasing negative secondary impacts on the neighborhood as more of the applicant's facilities established there in recent years. The impacts reported include:

- Litter in the neighborhood which complainants attribute to the applicant's facilities, including cigarette butts, soda cans, and beer cans and bottles;
- Family and other visitors to the facilities;
- Facility residents traveling in groups between one facility and the others;
- Meetings held regularly at one or more of the applicant's facilities, with outside attendees;
- Excessive use of on-street parking by facility residents and their guests; and
- Decline in property values in the neighborhood.

Due to a number of factors, including general fluctuations in the real estate market, staff is reluctant to speculate that any decline in property values is a direct result of the operation of applicant's facilities. Accordingly, this consideration was not factored into Staff's analysis.

A number of the neighbors' allegations appear credible, and directly contradict applicant's representations to the City. Specifically, the applicant stated in its submittals that:

- There are no outside visitors allowed at the facility;
- Residents are not permitted to have cars while they reside at the facility and rely on public transportation, carpools with the resident managers to get to the full-time jobs which the applicant states all residents have, and facility vans to get to treatment facilities and church (although the May 20, 2008 use permit application stated that this facility then allowed up to four resident vehicles onsite);
- No interaction between the four facilities operated in close proximity by the applicant is permitted.

Based on the misstatements and inconsistencies of the information supplied by the applicant in its use permit and reasonable accommodation applications, Staff views these representations about restrictions on visitors, cars and facility interaction with skepticism.

In particular, staff does not find the applicant's statement about its "no visitors" policy to be credible, because one of the letters of support (Exhibit 6) submitted by a former Yellowstone resident said, "I come to Yellowstone every week and am still a part of this place still to this day . . . 6 years later. I hope it is here for other girls to come back and work with the newcomers the way I have been given the chance too." Another former resident wrote, "Yellowstone is the place that I will continue to come back to and visit the new girls who are struggling the way I did." (Note: applicant's attorney states that these letters refer to meetings at another Yellowstone facility in Costa Mesa.)

The applicant's possible misstatements of easily verifiable facts (such as policies about no meetings, no visitors, and no inter-facility interaction), and early written and oral representations that two of the facilities held ADP licenses (which they never had), causes staff concern about the overall responsibility of the operator, and its ability to successfully manage both its residents and the negative impacts its facilities have on the surrounding neighborhood.

B. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.

Parking - The applicant stated in its original reasonable accommodation application for this property (May 20, 2008) that facility residents were not permitted to have personal vehicles at the property. (Note: This application also stated that the facility at 1561 Indus had 18 residents instead of the 12 referenced in other applications and correspondence – the original reasonable accommodation applications may have been submitted with the wrong use permit). The use permit application stated that four residents have personal vehicles they park onsite. Later correspondence and conversations with the applicant's attorneys indicated that no resident vehicles would be permitted onsite, and that only the two resident staff members would be permitted vehicles.

The two enclosed garage spaces and two driveway parking spaces allow for the staff vehicles to be accommodated without impacting neighborhood parking. However, the weekly meetings and weekend visitors reported by neighbors and former residents of the facilities disproportionately consume available neighborhood parking. The facility is located at the end of a cul-de-sac and has a narrow street frontage with very little adjacent on-street parking. Four other facilities are located in the same neighborhood in close proximity to this site. The cumulative impact of having more than one facility operating within a very restricted distance results in increased traffic and parking demands.

Traffic and Generated Trips – The Institute of Transportation Engineers (ITE) establishes and publishes standards for trip generation rates based on the use classification of a site. In the case of a single family dwelling, the standard trip rate is based on 9.57 average daily trips per dwelling. Trip rates for residential care facilities are based on 2.74 average daily trips per each occupied bed. Based on these standards, a 12-bed residential care facility would generate approximately 32.88 average daily trips. The evidence shows this facility will generate average daily trips substantially in excess of surrounding single-family dwellings.

5. *Finding: That the requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.*

This finding can be made. A request for reasonable accommodation may be denied if granting it would pose "a direct threat to the health or safety of other individuals or result

in substantial physical damage to the property of others." See 42 U.S.C. § 3604(f)(9). This is a very limited exception and can only be used when, based on the specific facts of a situation, a requested accommodation results in a significant and particularized threat. Federal cases interpreting this exception in the FHAA indicate that requested accommodations cannot be denied due to generalized fears of the risks posed by disabled persons.

SUMMARY – REASONABLE ACCOMMODATION REQUEST #1

In summary, with regard to the applicant's request to provide reasonable accommodation that treats the facility as a Single Housekeeping Unit, Findings 2 and 4 cannot be made. In accordance with the provisions of Section 20.98.025 of the NBMC, all five findings must be made in order for the Hearing Officer to approve a request for Reasonable Accommodation. Therefore, staff recommends that the Hearing Officer deny the Reasonable Accommodation request for the residents of the subject property to be treated as a Single Housekeeping Unit.

Reasonable Accommodation Analysis No. 2 – Request to be Exempted From Occupancy Standards of NBMC Section 20.91A.050.

In the January 29, 2009 letter from applicant's counsel's clarifying and supplementing applicant's request for reasonable accommodation, the applicant requested that the facility receive an exemption from the occupancy standards of NBMC Section 20.91A.050. NBMC Section 20.91A.050(C)(2) requires that use permits granted to residential care facilities restrict facility occupancy to no more than two residents per bedroom plus one additional resident.

All of applicant's facilities currently have residents in excess of the number that would be permitted under the use permit standards. One facility (1561 Indus) has 12 residents in five bedrooms; the other three (1621 Indus, 20172 Redlands, and 1571 Pegasus) have 18 residents in six bedrooms. Under the operating standards of NBMC Section 20.91A.050(C)(2), a use permit issued to 1561 Indus would be limited to no more than 11 residents. 1621 Indus, 20172 Redlands and 1571 Pegasus would be limited to no more than 13 residents at each facility. The applicant requests an exemption from this requirement that will allow each facility to continue at its current occupancy level.

The applicant's counsel did not indicate in the January 29, 2009 letter why the accommodation requested is necessary, but clarified the assertion of necessity via telephone and email to staff on February 12, 2009.

Applicant's counsel asserts that, as to current residents of 1561 Indus, the accommodation is necessary because if a use permit were granted restricting occupancy to 11, one current resident would be displaced. Because of financial constraints on the displaced resident's earning capability that result from the resident's disability, the applicant's counsel states that the displaced resident would have no other place to reside in a sober environment.

As to prospective residents of 1561 Indus, the applicant's counsel states that the accommodation is necessary because the prospective residents of 1561 Indus also have financial constraints caused by their disability, and would be unable to afford to rent a dwelling if the additional bed(s) at 1561 Indus were unavailable to them because of the occupancy restrictions of NBMC Section 20.91A.050(C)(2).

Ordinance No. 2008-05 codified the procedures for requesting, reviewing and granting, conditionally granting, or denying all requests for reasonable accommodation in the City of Newport Beach. The Hearing Officer is designed to approve, conditionally approve, or deny all applications for a reasonable accommodation. The ordinance also established required findings, and factors the Hearing Officer may consider when making those findings.

Pursuant to Section 20.98.025(B) of the NBMC, the written decision to approve, conditionally approve, or deny a request for reasonable accommodation shall be based on the following findings, all of which are required for approval.

1. *Finding: That the requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.*

This finding can be made. The applicant has submitted a statement signed under penalty of perjury that every resident of the facility is in recovery from alcohol addiction. Federal regulations and case law have defined recovery from alcoholism and drug addiction as a disability, because it is a physical or mental condition that substantially impairs one or more major daily life activities.

2. *Finding: That the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.*

As to current residents of 1561 Indus: This finding can be made. If a use permit is issued for this facility without the requested accommodation, one current resident of 1561 Indus would have to be removed from the facility in order comply with the terms of the use permit. The applicant reported in its application that the average length of stay for residents of this facility is six months; the applicant later verbally informed staff that residents stay six months to one year, sometimes longer. Granting the requested accommodation would allow that individual to remain in the dwelling for the remainder of her temporary stay, providing that individual with the opportunity to continue to live in her current dwelling for the necessary limited period of time.

As to prospective residents of 1561 Indus: This finding can be made, in light of factor C, below, as applied to this facility only if the applicant submits further financial evidence that proves the expenses for the 1561 Indus properties are as reported.

Applicant states that it charges monthly fees on a sliding scale based on ability to pay, and that the applicant's recovery services are needed services for many persons in

recovery from alcoholism. Applicant has submitted an Affidavit of Disability-Related Hardship, signed under penalty of perjury, on behalf of the facility's residents. The affidavit states that before becoming disabled, Yellowstone residents earned an average of \$50,000 per year, and that in recovery the residents are earning an average of \$20,000 per year. It is plausible that persons in early recovery from addiction tend to have lower incomes than they had before addiction temporarily reduced their employment opportunities. This will necessitate shared living arrangements in one form or another. Adding one bed, in the case of 1561 Indus, could afford an additional disabled individual the opportunity to use and enjoy a dwelling.

The analysis does not stop at the financial needs of the potential residents, however. Were that the case, the City might be obligated to authorize an unlimited number of residents at the applicant's facilities at greatly reduced rents; the population of recovering alcoholics with financial limitations is vast. Even the Ninth Circuit has noted that mandating lower rents for disabled individuals would probably not be considered a reasonable request. (See *Giebel v. M&B Associates*, 343 F.3d 1143, 1154 (9th Cir. 2003))

NBMC Section 20.98.025(C) permits the City to consider the following factors in determining whether the requested accommodation is necessary to provide the disabled individual an equal opportunity to use and enjoy a dwelling:

A. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.

Staff does not question the need for sober living homes, nor the fact that persons with a disability must have the opportunity to use and enjoy a dwelling. If the requested accommodation is granted, a slightly higher number of the applicant's current and potential clients will be able to live in a home in a single-family neighborhood with other recovering alcoholics. This is a situation that can affirmatively enhance the quality of life of a person in recovery from addiction, unless overcrowding of the facility or institutionalization of the neighborhood interferes with the residents' re-integration into society. The applicant's sliding scale of rental rates offers a sober living environment to residents who might not otherwise be able to afford to live in a single-family home in this area.

B. Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation.

As to current residents of 1561 Indus: If the use permit is granted and the accommodation is denied, at least one resident will be displaced from her temporary home.

As to prospective residents of 1561 Indus: The applicant has not submitted information on whether the facility at 1561 Indus is currently operating at full capacity, or whether there is a waiting list of potential residents.

C. *In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants.*

The applicant states that each facility requires 15 residents in order to be financially viable, and provides a general summary of average income and expenses for all four facilities. In some federal cases in which a sober living or other group home made a similar statement in support of its request for an accommodation allowing additional residents, courts found that the accommodation should be granted. However, the courts generally consider more detailed, verified financial information to reach that conclusion. (See *Oxford House-Evergreen v. City of Plainfield*, 769 F.Supp. 1329 (1991))

The applicant has not submitted financial information specific to each facility, but it has supplied an average cost analysis for its four facilities overall. The analysis was not signed under penalty of perjury, and although staff requested it, the applicant did not submit specific evidence such as mortgage statements or utility bills by the date of this report. If a residential recovery home is adding residents for its own financial advantage rather than to accommodate the financial limitations of the residents, the City is not obligated to grant the requested accommodation.

D. *In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.*

In 2007, City staff estimated that there were more than 315 sober living beds in the city (these are exclusive of the up to 213 ADP-licensed treatment beds). These numbers were compiled before applicant's facilities, with a total of 58 sober living and eight staff beds, were added to the city's supply. Operators of many sober living facilities within the city have reported decreased census and vacant beds, which could provide potential Yellowstone clients with an equal opportunity to live in a sober living environment without granting the accommodation. Further, a recent agreement with Sober Living by the Sea, Inc., authorized SLBTS to provide up to 204 beds citywide. However, many of these alternate sober living beds are probably not offered on a sliding fee scale based on ability to pay. The evidence does not support the applicant's contention that treating residents of its facility as a Single Housekeeping Unit will change the availability of the existing supply of facilities of a similar nature, or afford them a substantially greater access to an equal opportunity to live in a residential setting.

Even if the applicant provides housing for the disabled, and even if the requested accommodation is necessary, the City is not required to grant a request for accommodation that is not reasonable. Cities may find a requested accommodation unreasonable if it either (1) imposes an undue financial or administrative burden on the city, or (2) results in a fundamental alteration in the nature of a city program, often described as "undermining the basic purpose which the requirement seeks to achieve."

3. *Finding: That the requested accommodation will not impose an undue financial or administrative burden on the City as "undue financial or administrative burden" is defined in Fair Housing Laws and interpretive case law.*

As to current residents of 1561 Indus: This finding can be made. Allowing one additional bed on a temporary basis at the facility would not impose an undue financial or administrative burden on the City. Applicant states that the average length of stay for individual residents is 6 months. It creates little burden on the City to allow one of the current residents of 1561 Indus to complete her stay at the facility. Upon her departure, the facility's bed count will be within the range contemplated by the operating standards of the NBMC. The primary administrative burden on the City would be ensuring compliance.

As to prospective residents of 1561 Indus: This finding can be made. Allowing one extra bed at this facility would not create a currently identifiable undue financial or administrative burden on the City. However, staff makes this finding with caution, because applicant is requesting similar accommodations at each of its facilities. If all use permits and reasonable accommodation requests are granted, this would create a total of 16 residents in excess of the highest number permitted for the four facilities by the operating standards of the NBMC.

4. *Finding: That the requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program, as "fundamental alteration" is defined in Fair Housing Laws and interpretive case law.*

As to current residents: This finding can be made. Allowing one additional bed on a temporary basis at the facility would not result in a fundamental alteration in the nature of the City's zoning program. Applicant states that the average length of stay for individual residents is 6 months to one year. It does not fundamentally undermine the nature of the City's zoning program to allow one of the current residents of 1561 Indus to complete her stay at the facility. Upon her departure, the facility's bed count will be within the range contemplated by the zoning program.

As to prospective residents: If use permits are denied for one or more other Yellowstone facilities, this finding can be made. Permanently allowing a single additional bed in excess of the highest number allowed under the operational standards of the NBMC might not undermine the basic purpose which the requirement seeks to achieve. The basic purpose of the bed count limits is to draw a line at a reasonable density for a business providing residential recovery services within a residential neighborhood. A single additional bed would not undermine the fundamental purpose of the zoning program, assuming other program impacts are reduced elsewhere. If use permits are granted for all four Yellowstone facilities, this finding cannot be made.

Staff is also concerned that if use permits are granted at each facility, and each facility receives the reasonable accommodation requested here, the extra 16 individuals could

trigger an overconcentration that contributes even further to the change in the character of the neighborhood. The residents living in five recovery facilities located between 100 and 400 feet from each other are likely to create a quasi-institutional environment within the neighborhood. This will not benefit either the surrounding neighborhood or the recovering individuals attempting to reintegrate into the lifestyle found in a residential neighborhood.

In a joint statement on the Fair Housing Act, the Department of Justice and the Department of Housing and Urban Development have recognized it would adversely affect persons with disabilities and would be inconsistent with the object of integrating persons with disabilities into the community if a neighborhood came to be composed largely of group homes. They agree that it is appropriate to be concerned about the setting for a residential care facility, and that a consideration of overconcentration may be considered in this context.

Pursuant to Section 20.98.025(D) of the NBMC, the City may also consider the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City's zoning program:

A. *Whether the requested accommodation would fundamentally alter the character of the neighborhood.*

Staff acknowledges a petition stating "Yellowstone is a good neighbor" was presented to the City, signed by four residents of Pegasus Street (where one of the other facilities of applicant is located). However, the petition was countered by letters, emails and phone calls from the facilities' neighbors reporting increasing negative secondary impacts on the neighborhood as the applicant established more facilities in recent years. The letters of support, the letters of complaint, and the applicant's submissions do not indicate which Yellowstone facility the impacts are reported (or denied) for. Therefore, staff will analyze the reported impacts as if they apply to each facility equally. The impacts reported include:

- Litter in the neighborhood which complainants attribute to the applicant's facilities, including cigarette butts, soda cans, and beer cans and bottles;
- Family and other visitors to the facilities;
- Facility residents traveling in groups between one facility and the others;
- Meetings held regularly at one or more of the applicant's facilities, with outside attendees;
- Excessive use of on-street parking by facility residents and their guests; and
- Decline in property values in the neighborhood.

Due to a number of factors, including general fluctuations in the real estate market, staff is reluctant to speculate whether any decline in property values is a direct result of the operation of applicant's facilities. This consideration was not included in staff's analysis.

However, a number of the neighbors' allegations appear credible, and directly contradict representations made to the City by the applicants. Specifically, the applicant has stated in its reasonable accommodation applications and supplemental communications that:

- There are no outside visitors allowed at the facility;
- Residents are not permitted to have cars while they reside at the facility and rely on public transportation, carpools with the resident managers to get to the full-time jobs which the applicant states all residents have, and facility vans to get to treatment facilities and church (although the May 20, 2008 use permit application stated that this facility then allowed up to four resident vehicles onsite); and
- No interaction between the four facilities operated in close proximity by the applicant is permitted.

Based on the other misstatements and inconsistencies in the information supplied by the applicant in its use permit and reasonable accommodation applications, staff is inclined to view the applicant's representations about restrictions on visitors, cars and facility interaction with skepticism.

In particular, staff is not sure the applicant's statement about its "no visitors" policy is credible, because neighbors report visitors are common, and because one of the letters of support submitted by a former Yellowstone resident said, "I come to Yellowstone every week and am still a part of this place still to this day . . . 6 years later. I hope it is here for other girls to come back and work with the newcomers the way I have been given the chance too." Another former resident wrote, "Yellowstone is the place that I will continue to come back to and visit the new girls who are struggling the way I did." (Exhibit 6) (Note: applicant's attorney states that these letters refer to meetings at another Yellowstone facility in Costa Mesa.)

The applicant's possible misstatements of easily verifiable facts (such as policies about no meetings, no visitors, and no inter-facility interaction), and early written and oral representations that two of the facilities held ADP licenses (which they never had), causes staff concern about the overall responsibility of the operator, and its ability to successfully manage both its residents and the negative impacts its facilities have on the surrounding neighborhood.

Allowing facilities that are not well run to operate with a high concentration of residents can lead to a further alteration in the character of the neighborhood. If a use permit in this location is granted, it may be necessary to scale back rather than expand the population of the facility, and increase supervision and enforcement of existing house rule to mitigate the impact of the facility on the surrounding neighborhood.

Applicant's counsel has been informed of the inconsistencies in the applicant's submitted materials, and will submit additional information addressing the inconsistencies. On February 12, 2009, applicant's counsel informed staff by telephone that:

- Meetings referenced in Yellowstone alumni letters of support occur only at Yellowstone's Costa Mesa facility, and there are no meetings held at the Newport Beach facilities.
- There has been a change in policy since the original application for reasonable accommodation was submitted in May 2008. Personal vehicles are no longer allowed at 1561 Indus. Only the two resident managers may have vehicles in the neighborhood, which must be parked onsite.

Letters from facility neighbors indicate this may not be the case. Public testimony at the hearing will allow the hearing officer and staff a clearer picture of the actual situation.

B. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.

Parking - The applicant stated in its original reasonable accommodation application for this property (May 20, 2008) that facility residents were not permitted to have personal vehicles at the property. (This application also stated that the facility at 1561 Indus had 18 residents instead of the 12 referenced in other applications and correspondence – the original reasonable accommodation applications may have been submitted with the wrong use permit). The use permit application stated that four residents have personal vehicles which they park onsite. Later correspondence and conversations with the applicant's attorneys indicated that facility policy has changed, and that now no resident vehicles are permitted onsite, and that only the two resident staff members would be permitted vehicles. If residents are not allowed personal vehicles in the neighborhood, then there should not be a substantial increase in insufficient parking as a result.

However, the weekly meetings and weekend visitors reported by neighbors and former residents of the facilities do appear to impact neighborhood parking to an excessive degree. (Letters from the public say that meetings occur, but do not indicate which of the facilities hold meetings.) The 1561 Indus facility is located at the end of a cul-de-sac, and has a narrow street frontage with very little adjacent on-street parking.

Three other facilities operated by the applicant are located in the same neighborhood at in close proximity to each other. If requested reasonable accommodations are granted for all four of applicant's facilities, 16 facility residents in excess of the operating standards would be allowed. The operating standards already limit the overall population at the facilities to 50. The cumulative impact of having 16 extra residents in more than one facility operating within a very restricted distance could result in increased traffic and parking demands.

Traffic and Generated Trips – The Institute of Transportation Engineers (ITE) establishes and publishes standards for trip generation rates based on the use classification of a site. In the case of a single family dwelling, the standard trip rate is based on 9.57 average daily trips per dwelling. Trip rates for residential care facilities are based on 2.74 average daily trips per each occupied bed. Based on these

standards, a 12-bed residential care facility would generate approximately 32.88 average daily trips. An 11-bed facility would generate 30.14 average daily trips, not an appreciable difference below that generated by 12.

5. *Finding: That the requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.*

This finding can be made. A request for reasonable accommodation may be denied if granting it would pose "a direct threat to the health or safety of other individuals or result in substantial physical damage to the property of others." See 42 U.S.C. § 3604(f)(9). This is a very limited exception and can only be used when, based on the specific facts of a situation, a requested accommodation results in a significant and particularized threat. Federal cases interpreting this exception in the FHAA indicate that requested accommodations cannot be denied due to generalized fears of the risks posed by disabled persons.

SUMMARY – REASONABLE ACCOMMODATION REQUEST #2

The applicant has requested that the facility at 1561 Indus continue to have one bed in excess of that allowed by the operating standards specified in the NBMC operating standards for the duration of the stay of the one extra resident. In accordance with the provisions of Section 20.98.025 of the NBMC, all five findings must be made in order for the Hearing Officer to approve a request for Reasonable Accommodation.

Current Residents: All five findings were made as to the current residents of 1561 Indus. Staff recommends that if a use permit is granted for this facility, the Hearing Officer also grant the requested accommodation as to the current residents only.

Prospective Residents: If a use permit is granted for this facility, staff recommends that the Hearing Officer move to continue the hearing on this portion of the request to a date certain, to enable the applicant to submit additional financial information that will allow staff to accurately analyze the need for the accommodation.

A final staff recommendation on this accommodation request depends in part on financial information not yet submitted by the applicant, and on whether use permits for other Yellowstone facilities are granted. If use permits are denied for one or more of the other Yellowstone facilities, and if expenses at 1561 Indus are shown to be as reported, then all five findings can be made and staff can recommend approval of the request. If all four use permits are granted, Finding Four cannot be made. If the monthly costs at 1561 Indus are significantly lower than reported, then Finding Two cannot be made. In accordance with the provisions of Section 20.98.025 of the NBMC, all five findings must be made in order for the Hearing Officer to approve a request for Reasonable Accommodation.

Reasonable Accommodation Analysis #3 – Request to be Exempted From the City's Use Permit Application Fee Requirement.

The applicant has stated that, as a non-profit organization that relies on contributions from the community to keep it from operating at a loss, paying the use permit application fee deposit presents a financial hardship. Staff offered a payment plan to enable the applicant to pay the application fee within a reasonable period of time. In lieu of the payment plan, the applicant has requested an exemption from the \$2,200 use permit application deposit required to process the use permit application submitted for this facility.

NBMC Chapter 3.36 sets forth the fee schedule for municipal services, and mandates 100% cost recovery for services when the fee schedule does not set forth a lower rate of recovery. Use permits processing is not one of the services that are generally provided at a rate below 100% cost recovery NBMC Section 20.90.030 states that applications for discretionary approvals, including use permits, shall be accompanied by a fee as established by resolution of the City Council.

Federal courts have periodically reviewed whether the financial limitations of disabled individuals must be considered when analyzing reasonable accommodation requests, with inconsistent results. The Ninth Circuit has indicated that some disability-related financial constraints must be considered when the request is reasonable. As with all reasonable accommodations, the analysis of whether a requested accommodation from financial policies is reasonable must be determined on a case-by-case basis.

The applicant has submitted a signed Affidavit of Disability-Related Financial Hardship that gives general information on the pre- and post-disability average income range of typical facility residents. The applicant has also submitted an unverified statement of the average income and expenses related to the four facility properties, discussed above in Reasonable Accommodation Request #2, Finding Two (C).

SUMMARY – REASONABLE ACCOMMODATION REQUEST #3

Although staff requested further verifiable financial information from the applicant, this information had not been received at the time this report was prepared. Therefore, staff is unable to perform an accurate analysis of the actual financial needs of the applicant at this time. Staff recommends that the Hearing Officer continue this portion of the applicant's reasonable accommodation requests to a date certain, to allow the applicant time to submit and staff to analyze verifiable financial information.

RECOMMENDED ACTIONS:

Staff recommends that the Hearing Officer conduct a public hearing, receive testimony from the applicant, the City of Newport Beach and its legal counsel, and members of the public. At the conclusion of the public hearing, staff recommends the Hearing Officer:

1. Deny the use permit application based on the findings discussed in this report, and provide direction to staff to prepare a resolution of denial with prejudice of Use Permit No. 2008-034.
2. Deny the request for reasonable accommodation for the residents of the facility to be treated as a single housekeeping unit subject to the findings discussed in this staff report.
3. If a use permit is granted for this facility, staff recommends that the requested accommodation for an exemption from the occupancy restrictions of NBMC Section 20.91A.050 be granted as to the current residents. As to future residents of this facility, staff recommends continuance to a date certain pending receipt of additional financial information.
4. Staff recommends a continuance to a date certain for the request for reasonable accommodation for an exemption of the application filing fee requirement pending receipt of additional financial information.

Environmental Review

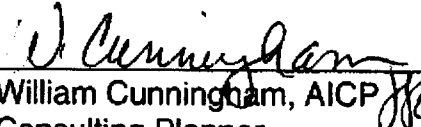
This activity has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from the provisions of CEQA. This activity is also covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3) of the CEQA Guidelines. It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment and therefore it is not subject to CEQA.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to property owners and occupants within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting which was posted at City Hall and on the City website.

Prepared by:

Submitted by:


William Cunningham, AICP
Consulting Planner


Dave Kiff
Assistant City Manager

EXHIBITS

1. Findings Chart
2. Initial Application Submittal dated May 20, 2008
3. Notices of Incomplete Application dated June 19, 2008, November 7, 2008, and January 14, 2009, including subsequent submittals
4. Site Plan/Floor Plans
5. Fire Marshal Correspondence and Code Analysis Submittal
6. Letters in Support (submitted by Applicant) and Letters in Opposition
7. Application for Reasonable Accommodation dated August 22, 2008
8. Applicant's Supportive Documentation submitted for Reasonable Accommodation
9. Applicant's E-mail dated January 28, 2009
10. Applicant's Additional Correspondence dated February 13, 2009
11. Additional Letters of Opposition Received After February 13, 2009

**SUBJECT PROPERTY: 1561 INDUS STREET (YELLOWSTONE FIRST STEP HOUSE
PART 1 – FINDINGS REQUIRED TO APPROVE THIS GROUP RESIDENTIAL USE PERMIT**

NBMC Code Section	What the Finding Says, Generally	Is this Finding met without Conditions?	Do Conditions Allow this Finding
\$20.91.035 – A.1	The use & location is in accord with the objectives of the Code and the purposes of the district. Finding encompasses (1) whether this application is appropriate in this district and (2) whether or not it will result in overconcentration.	1 – Yes, as an existing facility. No. 2 – No. Approving this facility will result in neighborhood overconcentration.	No – overconcentration would be approved.
\$20.91.035 – A.2	That the use and proposed conditions will allow the use to be consistent with the General Plan and not be detrimental to public health, safety, peace, morals, comfort, or welfare of persons residing in or adjacent to the neighborhood of the use, and won't be detrimental to the properties or improvements in the vicinity or to the general welfare of the City.	No.	No – overconcentration would be approved.
\$20.91.035 – A.3	That the proposed use complies with the provisions of the code.	No.	No – overconcentration would be approved.
\$20.91.035 – A.4	That the proposed use complies with Chapter 20.91A	No.	No – overconcentration would be approved.
\$20.91A.060 – A	That the use conforms to Section 20.91A.050 relating to operations and management standards (smoking, licensure, residents per bedroom, etc.)	No.	Yes – conditions include strict smoke control, managed medical waste bins, more.
\$20.91A.060 – B	Project includes sufficient on-site parking, traffic mitigated to a level of insignificance.	No.	No – location/proximity of a limited parking in cul-de-sac made.
\$20.91A.060 – C	Property and structures physically suited to accommodate the use.	Yes, certainly.	
\$20.91A.060 – D	Use will be compatible with the character of the neighborhood and won't create an overconcentration of residential care uses.	No.	No – overconcentration would be approved.
\$20.91A.060 – E	Buses and vans won't generate traffic substantially greater than that normally generated by residential activities in the surrounding area.	Yes, provided that residents are not allowed vehicles.	Condition to be added: limit having personal vehicles, etc.
\$20.91A.060 – F	Delivery of goods is made within compatible hours and won't	Yes, provided that delivery hours are	Condition to be added: require

adversely impact the neighborhood.	adhered to.	Limitations.
<p>520.92A.060 - G. Each collection commercial necessary and done within hours that do not adversely impact the neighborhood.</p>	No	<p>Yes - Condition.</p> <ul style="list-style-type: none"> Require use of a permit directed at a later date.

PART 2 - FINDINGS REQUIRED TO APPROVE REASONABLE ACCOMMODATION REQUESTS

Request Information & NBMC Code Sections	General Explanation of Required Finding	Can the finding be made?	
Request #1 - Residents treated as a Single Housekeeping Unit (NBMC 520.03.050)	Is the accommodation requested by or on behalf of disabled individuals?	Yes	Staff record
Section 20.98.025(B) - Finding #2	Is the accommodation requested necessary to provide one or more disabled individuals with an opportunity for housing?	No	
	Will the accommodation enhance the quality of life of one or more disabled persons?	Generally, yes	
	If the accommodation is not granted, will persons with disabilities be denied a housing opportunity?	Not supported by evidence provided	
	Is the accommodation necessary in light of economic conditions?	Not supported by evidence provided.	
Section 20.98.025(B) - Finding #3	Will this accommodation be the existing supply of residential care facilities sufficient to provide housing?	Not supported by evidence provided.	
	That the accommodation will not impose an undue financial or administrative burden on the City.	Yes	
Section 20.98.025(B) - Finding #4	That the accommodation will not result in a fundamental alteration in the nature of the City's zoning Program.	No	
	Will the accommodation fundamentally	Yes, possibly.	Inconsistent

	alter the character of the neighborhood?		not allow u alteration.
	Will the accommodation cause an increase in traffic or result in insufficient parking?	Yes	
Section 20.98.025(B) – Finding #5	That the requested accommodation will not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.	Yes	
Request #2 – Exemption from requirement of 2 persons/bedroom + 1 (MSMC §20.91A.050)			
Section 20.98.025(B) – Finding #1	Is the accommodation requested by or on behalf of disabled individuals?	Yes	
Section 20.98.025(B) – Finding #2	Is the accommodation requested necessary to provide one or more disabled individuals with an opportunity for housing?	Yes, generally	Staff seeks in records prospective
	Will the accommodation enhance the quality of life of one or more disabled persons?	Yes	
	If the accommodation is not granted, will persons with disabilities be denied a housing opportunity?	Yes, for current residents. Staff does not have enough information to make a conclusion on prospective residents.	
	Is the accommodation necessary in light of economic conditions?	Not supported by evidence provided.	
	Without this accommodation, is the existing supply of residential care facilities sufficient to provide housing?	Not supported by evidence provided.	
Section 20.98.025(B) – Finding #3	That the accommodation will not impose an undue financial or administrative burden on the City.	Yes, for both current and prospective residents.	
Section 20.98.025(B) – Finding #4	That the accommodation will not result in a fundamental alteration in the nature of the	Yes, for both current and prospective residents, provided that other program	

	City's zoning program	Impacts are reduced, eliminated, or avoided?	Inconsistent with not allow alteration
Section 20.98.025(b) - Finding #5	<p>Will the accommodation fundamentally alter the character of the neighborhood?</p> <p>Will the accommodation increase an increase in traffic or result in insufficient parking?</p> <p>That the requested accommodation will not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.</p>	<p>Yes, possibly.</p> <p>This depends on the outcome of other accommodation requests - a cumulative addition of 16 residents in four homes could indeed result in increased traffic and parking demands.</p> <p>Yes.</p>	
Request for Exemption from Use Permit application fee to cover cost of reviewing application (BMC §20.98.025 and Chapter 3.86)	Not enough data	Not enough data	Staff need more information

#

EXHIBIT 2

INITIAL APPLICATION SUBMITTAL

Mark S. Adams
Scott R. Albrecht
Ryan N. Burns
Loren A. Deters
Howard Goldstein*
Matthew A. Goldstein**
Beatriz M.G. Gordon
Philip W. Green
Megan G. Mayer
Herbert N. Samuels***
Hugh A. Sanders
William L. Steel
Martin J. Stein
Isaac R. Zfaty



Senior Counsel
Jeffrey S. Grider

RECEIVED

MAY 20 2008

**Office of the
City Manager**

*Also admitted in Nevada
**Also admitted in Arizona
***Also admitted in New York and Florida

May 20, 2008

8005-003

HAND DELIVERED
CITY OF NEWPORT BEACH
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Re: Ordinance 2008-5 (the "Ordinance") Use Permit Application; Reasonable Accommodation; Federal Exemption Permit; Non-Conforming Use Application

To Whom It May Concern:

This firm is general counsel for **Yellowstone Women's First Step House, Inc.** ("Yellowstone"). Please direct all future correspondences regarding this matter to this office.

Enclosed herewith are the following items:

1. Ordinance 2008-5 Use Permit Application for the property located at 1571 Pegasus, Newport Beach, CA 92707;
2. Reasonable Accommodation Application for the property located at 1571 Pegasus, Newport Beach, CA 92707;
3. Ordinance 2008-5 Use Permit Application for the property located at 1621 Indus St., Newport Beach, CA 92707;
4. Reasonable Accommodation Application for the property located at 1621 Indus St., Newport Beach, CA 92707;
5. Ordinance 2008-5 Use Permit Application for the property located at 20172 Redlands Dr., Newport Beach, CA 92707;

6. Reasonable Accommodation Application for the property located at 20172 Redlands Dr., Newport Beach, CA 92707;
7. Ordinance 2008-5 Use Permit Application for the property located at 1561 Indus, Newport Beach, CA 92707; and
8. Reasonable Accommodation Application for the property located at 1561 Indus, Newport Beach, CA 92707.

Additionally, by and through the materials included herein (including this correspondence), Yellowstone seeks a Federal Exemption Permit and a grant of Non-Conforming Use for the continued use of the above referenced four properties (the "Properties") as sober living homes.

Yellowstone operates the Properties as not for profit homes where individuals with drug and alcohol addictions can live in a sober and supportive environment. As you know, these individuals are protected under, *inter alia*, the Americans With Disabilities Act (the "ADA") and the Federal Fair Housing Act Amendments (the "FHAA"). This application is brought by Yellowstone (the "Applicant") on the behalf of all of the disabled individuals who reside at the Properties, both currently and prospectively.

It is worth noting that Yellowstone is less than confident that the instant applications are necessary. Yellowstone hereby submits these applications out of an abundance of caution and in a continued effort to remain compliant with all applicable Newport Beach ordinances.

With respect to each of the Properties, the following facts apply:

The Properties were originally purchased in the unincorporated area of Orange County known as Santa Ana Heights. Recently, the Properties were annexed by the City of Newport Beach. Further, Ordinance 2008-5 was signed into law. As a result, Yellowstone has decided to submit the referenced applications under Ordinance 2008-5 and Municipal Code sections 20.62.010, et seq., 20.91.010, et seq., 20.91A.010, et seq., and 20.98.010, et seq.

The Ordinance requires that a number of questions be addressed in the permit application, and also in connection with the request for reasonable accommodation. In response to those requirements, Yellowstone provides the following specific information: Yellowstone does not provide medical services, or any other type of health care, at any of the Properties. Rather, the Properties are available as separate and distinct sober living homes of residence for disabled individuals who seek to live in a house with other similarly disabled individuals (who have made a commitment to sobriety), in community, and with the purpose of maintaining that sobriety and addressing their respective disabilities.

The success of sober living homes in assisting these disabled individuals throughout the United States is well documented. Similar success has been realized at the Properties addressed herein. A sample of the literature on sober living homes is attached to the applications. Without the sober living homes addressed in these applications, i.e., the Properties, the individuals who live at these homes would not have access to sober living homes, and would not be able to afford to live in such a home in Orange County. Yellowstone provides these homes to satisfy the otherwise unaddressed need by these disabled individuals for an equal opportunity to use and enjoy a dwelling. There is no question that, with their current use, these Properties affirmatively enhance the lives of many individuals with disabilities.

Importantly, the rent charged to these individuals simply covers Yellowstone's costs; no profit is realized. In fact, without charitable contributions, Yellowstone would operate at a loss. By no means is Yellowstone, or any individual involved with Yellowstone, a profiteer. Yellowstone simply makes available a sober living environment in an effort to help these disabled individuals, and with a view toward enhancing the community. To the extent that Yellowstone is forced to remove its operations from these Properties, it will suffer extreme economic hardship. Moreover, with any prospective closure of any of the Properties as sober living homes, the individuals with disabilities who live in these homes will be without accommodations.

Yellowstone is compliant with all of the requirements in the City of Newport Beach's Good Neighbor Principles, and is tenacious in ensuring that all residents at the Properties strictly observe these requirements. Approval of these applications would not alter the nature of the municipal code or impose any financial or administrative burden on the City. These Properties have been operating under these same general guidelines for between two and seven years (depending upon the property) without imposing any burden upon the County or City. The residential character of the neighborhoods in which these Properties are located will not be altered in any way with the approval of these applications. In fact, there is no non-residential use at any of the Properties. Moreover, there is no campus established through the grant of these applications. Residents from any one Yellowstone property are not allowed at any of the other Properties, and there are no functions that include all residents. Yellowstone has never been cited by any municipality – at any of the Properties – for any of the complaints set forth specifically in Ordinance 2008-5, Page 4, Paragraph 13. No health, safety or physical damage issues are presented with granting of these applications.

On a separate but related matter, Yellowstone would like to apply for a Federal Exemption Permit ("FEP") to continue its operations, pursuant to Municipal Code section 20.91.035, et seq. We have been unable to locate any FEP forms on the City's website. Yesterday, Ms. Leisha Mello of Yellowstone personally appeared at City Hall to attempt to obtain such forms. She was informed by an individual identified as Mr. Alford, a senior planner, that the FEP was no longer available, and that the municipal code as well as Ordinance 2008-5, had been amended to exclude the FEP. After re-reviewing the municipal code, as well as the

Ordinance, this does not appear to be the case. Accordingly, we would hereby request that an FEP application be sent to us at your convenience. Alternatively, to the extent that the FEP application requirements are satisfied with the information provided herein, we would request that these applications be deemed FEP requests.

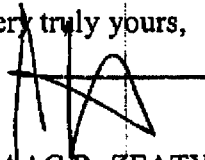
Lastly, we would note that Yellowstone would like to simultaneously apply for a continued use permit under the non-conforming use statutes (Municipal Code section 20.62.010 et seq.). As with the FEP, Ms. Mello was informed that no forms currently exist for application under this code section. That section provides that "Uses, buildings, structures or lots that become nonconforming due to reclassification, ordinance changes, or annexations may be continued subject to the provisions of this Chapter." As discussed above, each of the Properties addressed in this application will fit this definition in the event that a use permit is not granted. In that case, Yellowstone will have become nonconforming due to reclassification and the enactment of Ordinance 2008-5. In reviewing the factors that are to be considered, they are similar in nature to those required for the Use Permit and the Reasonable Accommodation application. Accordingly, Yellowstone incorporates the materials provided herein as they relate to this instant request for a non-conforming use permit. Of note, section 20.62.030D requires that "sufficient documentation" be provided to establish that the structure was lawfully established. Given that: 1. The City annexation of the Santa Ana Heights region is well-documented; 2. The public record duly reflects that the Properties at issue here are a part of such annexation; and 3. Ordinance 2005-8 may have rendered Yellowstone's use of these Properties noncompliant; Yellowstone sees no need to submit any additional documentation to the City. If there are any documents that are required by the City in undertaking this analysis, however, which are not already in the City's possession, please advise us of same, and we will diligently supply any such documentation.

In sum, Yellowstone submits that it provides a vital service for the City of Newport Beach at the Properties while, at the same time, avoiding any burden whatsoever to the City or its residents. Yellowstone brings these applications in a continued effort to ensure that the City of Newport Beach is fully apprised of all of its operations, and that there are no misconceptions about Yellowstone or its character. As discussed above, we have attached to each individual application some published materials that support the contentions made in these applications. We are further committed to provide the City with any documentation that it requires in connection with these applications (subject to any privacy considerations). This correspondence is incorporated by this reference into each individual above-referenced application.

City of Newport Beach
May 20, 2008
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As always, if you have any questions regarding these applications, please feel free to contact us.

Very truly yours,

A handwritten signature in black ink, appearing to be 'ISAAC R. ZFATY', written over a horizontal line.

ISAAC R. ZFATY

IRZ/jn

cc: Yellowstone (attn: Dr. Anna Marie Thames)



CITY OF NEWPORT BEACH

Request for Reasonable Accommodation Request Worksheet

Planning Department
3300 Newport Boulevard
Newport Beach, California 92658-8915
(949) 644-3200

Application Number _____

The purpose of a request for "Reasonable Accommodation" is to ensure compliance with City zoning regulations in the context of State and Federal Fair Housing law. Reasonable Accommodation is used here just as the term is used in the Federal Fair Housing Act Amendments (FHAA) and the case law implementing the FHAA. Reasonable Accommodation shall be approved so long as there is substantial evidence in the administrative record that establishes that all of the following findings for approval have been made:

1. The exception sought is necessary to mitigate a handicap-related barrier to housing; and
2. The living group is not residing in the Dwelling or Dwellings as a Single Housekeeping Unit.
3. Reasonable Accommodation, if approved, would not require a fundamental alteration in the nature of a municipal program nor impose an undue financial or administrative burden on the City. To the extent authorized by law, the factors that a Hearing Officer or the City Council on review or appeal may consider in deciding whether to grant Reasonable Accommodation include, but are not necessarily limited to:
 - (i) Whether the nature and/or extent of vehicular traffic, such as the frequency or duration of trips by commercial vehicles, would be altered to such an extent that it would be contrary to, or violate, any relevant provision of the Newport Beach General Plan, Specific Plan, Planned Community Text or Municipal Code if reasonable accommodation was approved. The intent of this provision is to ensure that the approval of Reasonable Accommodation does not tend to change the residential character of the neighborhood; or
 - (ii) Whether development or use standards established in the Newport Beach Municipal Code applicable to other residential uses in the neighborhood would be violated. The intent of this provision is to ensure that the use of the property is not being substantially changed, for instance, by adding unpermitted, non-residential uses to a residential use in a residential zone; or
 - (iii) Whether a Campus would be established in a residential zone if the Reasonable Accommodation request was granted.

To aid staff in determining that the necessary findings can be made in this particular case, please answer the following questions with regard to your request (Please attach on separate sheets, if necessary):

1. How many dwelling units exist on the property and how many bedrooms are within each unit?
There is one dwelling unit with six bedrooms.
2. How many persons will reside at the location for which you are seeking this permit?
18
3. How many clients reside within each dwelling unit and how many reside in the total facility?
18
4. What is the anticipated average length of stay for residents?
Six months
5. Do the clients have physical or mental impairments that substantially limit one or more of such person's major life activities? What are those impairments? Yes. The individuals who reside at the property are all disabled under the Americans with Disabilities Act.
6. Are any of the clients below the age of 18 years old, if so, how many? No.
7. Are any of the clients provided any type of medical care, non-medical services or supervision on site? If so, please describe. No medical care or non-medical services are provided.
8. How many caretakers or other staff will reside at the location? How many additional caretakers or staff will visit the facility on a daily basis? Weekly basis? Two staff members reside at the property. There are no other "caretakers" or "staff" that will visit the facility on a daily or weekly basis.
9. What is the operational nature of the facility (i.e. group home, sober living environment, recovery facility, varying types of non-medical care for persons in need of certain services essential for sustaining the activities of daily living)? The property is a sober living home. There are no medical services provided at this property. This sober living home serves the function of providing a sober living environment for those who are disabled under the American With Disabilities Act.
10. Describe available on-site parking resources and the staff and visitor parking plans. The property has a two-car garage and a driveway. This parking is ample for all of the property's needs. The residents at the property do not have automobiles and rely upon public transportation and/or carpooling.
11. Describe client's ability to drive and operate a vehicle while residing at the facility. The tenants' vehicles are not allowed to be parked and/or utilized at the property.

12. Does the facility provide transportation services (i.e. transportation to school, jobs, medical treatment, or other activities)? If yes, please describe the frequency, duration and schedule of services and where the vehicles are stored? No.
13. Are any physical alterations or changes proposed to the property or needed to accommodate the use? No.
14. Is counseling provided to clients? If so, is it provided on-site or off-site? If on-site, does counseling only include clients that reside within the unit or does it include other individuals? If counseling is provided off-site, where is it provided? No.
15. Please list location and describe operational characteristics of other facilities operated by same applicant (or owner or business or non-profit entity) within the City. Will this facility provide office functions to serve other facilities owned or operated by the same entity? The four homes operated by the applicant in the city of Newport Beach are: 1571 Pegasus, Newport Beach, CA 92707, 1621 Indus St., Newport Beach, CA 92707, 20172 Redlands Dr., Newport Beach, CA 92707, 1561 Indus, Newport Beach, CA 92707. Each facility is stand-alone, and no office functions are provided by any one facility for the benefit of another.
16. How do the clients/residents interact with each other within the unit? Is there joint use of common areas? Do clients share household activities and responsibilities such as meals, chores, and expenses? Will goods or services that require the use of delivery vehicles be provided to the facility? The residents at the property reside separately at the property and interact within the property. There is individual use of common areas. The residents are responsible for their own meals, expenses and chores. Each individual resides at the property subject to a separate contractual arrangement with the applicant. There are no delivery vehicles required at the property.
17. If the facility is operated within multiple dwelling units on a single property, does each unit operate independent of each other or do any units serve a function for the residents of other units (i.e. one unit serving the function of food preparation, office, laundry, group meeting space, counseling space, etc.). There are not multiple dwelling units at the property.
18. What types of licenses are required to be obtained from other agencies to operate this use (i.e. Department of Social Services, Department of Alcohol and Drug Programs, etc.)? If any, describe agency, type, and capacity of licenses. None. The property does, however, have voluntary certification by the Orange County Sober Living Coalition.
19. Please explain why the requested accommodation is necessary. This application is brought by the applicant on the behalf of all of the disabled individuals who reside at the property. Each individual resident at the property is considered disabled under the Americans With Disabilities Act and the Federal Fair Housing Act Amendments. The applicant is unsure as to whether the instant request for accommodation is necessary, but the applicant is applying for a reasonable accommodation out of an abundance of caution. The property was originally purchased as an unincorporated area of Orange County. Recently, the property was annexed by the City of Newport Beach. Further, Ordinance 2008-5 was signed into law.

As a result, the applicant has decided to ask for a reasonable accommodation under section 20.98.010 et seq. The applicant does not provide medical services or any other type of health care at the property. Rather, the property is available as a sober living home for individuals who seek to live in a house with other sober individuals (who have a similar disability), in community, and with the purpose of maintaining sobriety and addressing their respective disabilities. The success of sober living homes throughout the United States is well-documented. Similar success has been realized at the property. Without sober living homes, the individuals who live at the property would not have access to sober living homes, and would not be able to afford to live in a sober living home in Orange County. The rent charged to these individuals simply covers the applicant's costs; no profit is realized. The applicant is compliant with all of the requirements in the City of Newport Beach's Good Neighbor Principles, and is tenacious in ensuring that all residents at the property follow these requirements. Approval of this application would not alter the nature of the municipal code and/or impose undue financial or administrative burden on the City. This property has been operating under the same guidelines for three years without imposing any additional burden upon the County or City. The residential character of the neighborhood will not be altered in any way with the approval of this application. Attached hereto, and incorporated herein by this reference, are just some published materials that support the contentions made in this application. There is no non-residential use at the property. There is no campus established through the grant of this reasonable accommodation. Residents from any one property utilized by the applicant are not allowed on any of the other properties, and there are no functions that include all residents. In sum, the applicant provides a vital service for the City of Newport Beach at the property while, at the same time, avoiding any burden to the City and its residents. Importantly, the applicant has never been cited by any municipality – at this property or any other – for any of the complaints set forth specifically in Ordinance 2008-5, Page 4, Paragraph 13.

Application Number _____

20. Please attach any house rules or "good neighbor" policies applicable to the proposed facility.
All residents at the property follow the City of Newport Beach Good Neighbor Principles, as published on the City's website.
21. What uses will occur on the property that are ancillary, accessory or secondary to use of the property as a residential dwelling? None.
22. Will the facility operator, manager or applicant live on the property? Yes. The manager and assistant manager live at the property.
23. Will any alterations to the internal or external structural form of the residence be made? No.
24. Will any evidence of uses ancillary, accessory or secondary to use of the property as a residential dwelling be visible from off the lot where the facility is located? N/A.
25. Will any equipment or materials needed for uses ancillary, accessory or secondary to use of the property as a dwelling be stored or used on the property outside the residence? N/A.
26. Will any equipment or process be used that will emit radiation or create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the property for uses ancillary, accessory or secondary to use of the property as a residential dwelling?
No.
27. Will the number of parking spaces available to each dwelling unit used by the facility be reduced to less than that required by NBMC Chapter 20.66 (Off-street Parking and Loading) and Section 20.62.060 (Nonconforming Parking)? No.
28. Will the facility create pedestrian, vehicle or truck traffic significantly in excess of the normal amount in the area? No.
29. Will any vehicle associated with uses ancillary, accessory or secondary to use of the property as a residential dwelling be stored or repaired on the facility property? No.
30. Will the facility be open to visitors and clients without prior appointments for uses ancillary, accessory or secondary to use of the property as a residential dwelling? No.

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The Sober Living Network

A SOBER HOUSING VISION

Someday there will be **recovery supportive housing and community centers throughout the United States**. These clusters will be developed with a variety that will include individual houses, apartments, and congregate living accommodations. There will be a mixture of housing with normal-cost apartments for recovery veterans and low-cost, supervised shared housing for those in early recovery. In many accommodations there will be specially designed housing sections for women and/or men with children that have play areas and childcare. Sober housing clusters will be designed to accommodate persons who are physically and mentally challenged.

Sober housing clusters will be **recovery-promoting incubators**. The clusters will include meeting spaces to host self-help and educational meetings, recreational, and social events. They will be operated within a democratic culture and a high level of recovery enthusiasm.

These clusters will become **islands of sobriety in our alcohol and drug using society**. Sober housing and community centers will become continuously available as a recovery assistance resource for alcoholics, addicts, and family members. They will be available and noticeable not only to those who are fully into their addiction, but those who are in their earlier or experimental stages. Communities of stable recovering persons can easily absorb newly recovering persons into their community.

Currently many sober living homes are trying to meet the needs of newly recovering persons without the benefit of having a core of stable recovering residents or the management resources to meet their recovery service needs.

The rationale for cluster housing is that the **self-help learning process comes in bits and pieces**. The greater the exposure to a comprehensive recovery environment with many recovery activities and a predominance of recovering people, the greater chance a person has to learn recovery. The need for a balance of recovery experiences became evident when twelve-step meetings dominated by newcomers were not as effective in assisting recovery as those meetings where most members have long-term stable recovery.

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The Sober Living Network

COMMUNITY RECOVERY SUPPORT RESOURCES

Community recovery resources offer a practical and cost-efficient way to assist alcoholics, addicts and family members to enter and maintain long-term recovery.

The current alcohol and drug treatment system does not have the capacity to meet the long-term recovery assistance needs required to meet the needs of the many. The treatment system is too heavily invested in short-term treatment and too little invested in the development of safe and healthy community recovery promoting environments and activities that are constantly available to support recovery and life style enhancements.

Alcohol and drug treatment programs have been formatted by government and academic institutions into quality "people processing" treatment stations that are now too costly per person assisted to significantly reduce addiction problems.

Community recovery is based on the postulate that safe and sober places filled with healthy recovery activities provide the environments, motivation and recovery tools for alcoholics, addicts and family members to assist (process) themselves. Operators maintain healthy and safe environments and promote individual recovery responsibility. Community recovery resources include self-help meetings, Alano clubs which host self-help activity, community recovery centers, sober living housing, and sober recreational and social events. Community recovery centers are self-service spaces that offer education sessions, host self-help groups, hold social/recreational events and have counseling and therapy available by self-selection. Community recovery centers, activities and housing are easily adaptable to meet the broad ethnic, cultural and physically challenged needs.

Community recovery resources are assisting millions of alcoholics, addicts and family members in recovery from alcoholism and other drug addictions with little or no support from government and health insurance funding sources. Sober living homes, Alano clubs and community recovery centers are primarily created and supported by recovering persons motivated by a call to be of service to others.

The Sober Living Network
P.O. Box 5235, Santa Monica, CA 90409
(310) 396-5270

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<http://www.soberhousing.net/community.html>

5/15/2008

YS 00075



The National Council on Alcoholism and Drug Dependence fights the stigma and the disease of alcoholism and other drug addictions.

Facts and Information

Alcoholism and Drug Dependence Are America's Number One Health Problem

The cost and consequences of alcoholism and drug dependence place an enormous burden on American society. As the nation's number one health problem, addiction strains the health care system, the economy, harms family life and threatens public safety.

Substance abuse crosses all societal boundaries, affects both genders, every ethnic group, and people in every tax bracket. Scientific documentation defines alcoholism and drug dependence as a disease that has roots in both genetic susceptibility and personal behavior.

THE SCOPE OF THE PROBLEM

- *There are more deaths and disabilities each year in the U.S. from substance abuse than from any other cause.* ¹
- *About 18 million Americans have alcohol problems; about 5 to 6 million Americans have drug problems.* ²
- *More than half of all adults have a family history of alcoholism or problem drinking.* ³
- *More than nine million children live with a parent dependent on alcohol and/or illicit drugs.* ⁴

THE CONSEQUENCES

- *One-quarter of all emergency room admissions, one-third of all suicides, and more than half of all homicides and incidents of domestic violence are alcohol-related.* ⁵

- *Heavy drinking contributes to illness in each of the top three causes of death: heart disease, cancer and stroke.*⁶
- *Almost half of all traffic fatalities are alcohol-related.*⁷
- *Between 48% and 64% of people who die in fires have blood alcohol levels indicating intoxication.*⁸
- *Fetal alcohol syndrome is the leading known cause of mental retardation.*⁹

THE COST

- *Alcohol and drug abuse costs the American economy an estimated \$276 billion per year in lost productivity, health care expenditures, crime, motor vehicle crashes and other conditions.*¹⁰
- *Untreated addiction is more expensive than heart disease, diabetes and cancer combined.*¹¹
- *Every American adult pays nearly \$1,000 per year for the damages of addiction.*¹²

SO, WHAT CAN BE DONE?

Like other diseases, addiction can be overcome with proper treatment, prevention and more research. By increasing access to care, the costly toll on society and the burden it places on families can be reduced. Research shows conclusively that successful prevention and treatment leads to reductions in traffic fatalities, crime, unwanted pregnancy, child abuse, HIV, cancer and heart disease. Treatment reduces drug use, improves health, improves job performance, reduces involvement with the criminal justice system, reduces family dysfunction and improves quality of life.

The Comprehensive Assessment Treatment Outcomes Registry Data in Ohio have documented dramatic results in decreasing occupational problems, including the following reductions after treatment:

- *Absenteeism decreased by 89%*

- *Tardiness decreased by 92%*
- *Problems with supervisors decreased by 56%*
- *Mistakes in work decreased by 70%*
- *Incomplete work decreased by 81%* ¹³

Additionally, a California Study found significant decreased health care costs from before to after treatment in:

- *Hospitalizations for physical health problems (-36%)*
- *Drug overdose hospitalizations (-58%)*
- *Mental health hospitalizations (-44%)*
- *The number of emergency room visits (-36%)*
- *The total number of hospital days (-25%)* ¹⁴

Americans increasingly recognize that alcoholism and drug dependence is a disease with consequences that affect both physical and behavioral health. Diagnostic and treatment services have changed in recent years and modern treatment, when adequately provided, enables a great many people to recover and rebuild productive lives.

It is important that the public be aware of evidence generated by scientific inquiry, clinical evaluation and clinical experience. The evidence demonstrates that treatment for alcohol and other drug abuse works. Treatment not only saves lives, it also saves dollars that would otherwise be spent in other areas of medical care and social services. For every dollar spent on addiction treatment, seven dollars is saved in reduced health care costs.¹⁵

The National Council on Alcoholism and Drug Dependence is dedicated to fighting the stigma and the disease of alcoholism and other drug addictions by providing education, information, help and hope to the public. NCADD advocates prevention, intervention, and treatment through a network of 97 affiliates across the United States. For more information, visit: www.ncadd.org.

Alcoholism and drug dependence are treatable and millions of people achieve recovery.

SOURCES

1. "Substance Abuse: The Nation's Number One Health Problem," Institute for Health Policy, Brandeis University, 1993.

2. "Substance Abuse: The Nation's Number One Health Problem," Institute for Health Policy, Brandeis University, 2001.
3. Position Paper on Drug Policy, Physician Leadership on National Drug Policy (PLNDP), Brown University Center for Alcohol and Addiction Studies, 2000.
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5. "Sobering Facts on the Dangers of Alcohol," NY Newsday, April 24, 2002.
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7. National Highway Traffic Safety Administration, Annual Report, 1992.
8. "Substance Abuse: The Nation's Number One Health Problem," Institute for Health Policy, Brandeis University, 1993.
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13. Ohio Dept. of Alcohol and Drug Addiction Services, New Standards, Inc., St. Paul, MN, 1994.
14. Gerstein, et al, "Evaluating Recovery Services: the California Drug and Alcohol Assessment," Sacramento, 1994.
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Compiled 6/02



National Council on Alcoholism and Drug Dependence, Inc.

244 East 58th Street, 4th Floor, New York, NY 10022
phone: 212/269-7797 fax: 212/269-7510
email: national@ncadd.org <http://www.ncadd.org>
HOPE LINE: 800/NCA-CALL (24-hour Affiliate referral)

General population

According to data from the 2005 National Household Survey on Drug Use and Health (NSDUH) –

- 112 million Americans age 12 or older (46% of the population) reported illicit drug use at least once in their lifetime
- 14% reported use of a drug within the past year
- 8% reported use of a drug within the past month.

Data from the 2005 survey showed that marijuana and cocaine use is the most prevalent among persons age 18 to 25.

Drug use	Age of respondent, 2004		
	12-17	18-25	26 or older
Marijuana			
Last month	6.8%	16.6%	4.1%
Last year	13.3	28.0	6.9
Cocaine			
Last month	0.8%	2.6%	0.8%
Last year	1.7	6.9	1.5

Source: SAMHSA, Office of Applied Studies, 2005 National Survey on Drug Use and Health: National Findings, September 2008.

The Drug Abuse Warning Network (DAWN) monitors drug-related emergency department (ED) visits for the nation and for selected metropolitan areas. DAWN also collects data on drug-related deaths investigated by medical examiners and coroners in selected metropolitan areas and States.

In 2005, DAWN estimates that nearly 1.4 million emergency department visits nationwide were associated with drug misuse or abuse.

An estimated 816,696 drug-related emergency department visits involved a major substance of abuse. DAWN estimates that:

- Cocaine was involved in 448,481 ED visits.
- Marijuana was involved in 242,200 ED visits.
- Heroin was involved in 164,572 ED visits.
- Stimulants, including amphetamines and methamphetamine, were involved in 138,850 ED visits.
- Other illicit drugs, such as PCP, Ecstasy, and GHB, were much less frequent than any of the above.

Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, *Drug Abuse Warning Network, 2005: National Estimates of Drug-Related Emergency Department Visits*. DAWN Series D-29, DHHS Publication No. (SMA) 07-4256, Rockville, MD, 2007.

In 2003, 122 jurisdictions in 35 metropolitan areas and 6 States submitted mortality data to DAWN. The States, which are all new to DAWN, are Maine, Maryland, New Hampshire, New Mexico, Utah, and Vermont. DAWN cannot provide national estimates of drug-related deaths.

In the metropolitan areas, nearly half of drug misuse deaths, on average, involved a major substance of abuse (cocaine, heroin, marijuana, stimulants, club drugs, hallucinogens, or non-pharmaceutical inhalants). Across the 6 States, major substances were reported in about a third of misuse deaths. Still, major substances were reported in 40% to 45% of drug misuse deaths in Maryland, New Mexico, and Utah. Descriptions of drug abuse deaths in the participating metropolitan areas are available in the *Mortality Data from the DAWN, 2003* report.

According to data from the 2003 *Mortality Data from DAWN* – Cocaine was the most frequently reported illicit drug. In the drug misuse deaths, cocaine was among the top 5 drugs in 28 of the 32 metropolitan areas and all of the 6 States. On average, cocaine alone or in combination with other drugs was reported in 39% of drug misuse deaths (range 8% to 70%). Alcohol was one of the 5 most common drugs in 30 of the 32 metropolitan areas and 5 of the 6 States. In 29 of the 32 metropolitan areas, more drug misuse deaths involved an opiate/opioid than any other drug.

Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, *Drug Abuse Warning Network, 2003: Area Profiles of Drug-Related Mortality*. DAWN Series D-27, DHHS Publication No. (SMA) 05-4023, Rockville, MD, 2005.

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Use

The Monitoring the Future Study asked high school seniors, "On how many occasions, if any, have you used drugs or alcohol during the last 12 months or month?"

Reported drug and alcohol use by high school seniors, 2006

Drugs	Used within the last:	
	12 months*	30 days
Alcohol	86.5%	45.3%
Marijuana	31.5	18.3
Other opiates	9.0	3.8
Stimulants	8.1	3.7
Sedatives	6.6	3.0
Tranquilizers	6.6	2.7
Cocaine	5.7	2.5
Hallucinogens	4.9	1.5
Inhalants	4.5	1.5
Steroids	1.8	1.1
Heroin	0.8	0.4

*Including the last month.

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB)

Self-reports of drug use among high school seniors may under represent drug use among youth of that age because high school dropouts and truants are not included, and these groups may have more involvement with drugs than those who stay in school.

Percent of all college students, 1995-2005

Drug use	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Marijuana											
Daily within											
last month	3.7%	2.8%	3.7%	4.0%	4.0%	4.6%	4.5%	4.1%	4.7%	4.5%	4.0%
Last month	18.6	17.5	17.7	18.6	20.7	20.0	20.2	19.7	19.3	18.9	17.1
Last year	31.2	33.1	31.6	35.9	35.2	34.0	35.8	34.7	33.7	33.3	33.3
Cocaine											
Daily within											
last month	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	*	0.0%	0.1%
Last month	0.7	0.8	1.6	1.8	1.2	1.4	1.9	1.6	1.9	2.4	1.8
Last year	3.6	2.9	3.4	4.6	4.8	4.8	4.7	4.8	5.4	6.8	5.7

* Less than 0.05%

Rates of past year cocaine use by college students have varied over the past 10 years from a low of 2.9% in 1996 to a high of 5.7% in 2005. Past year marijuana use has ranged from a low of 31.2% in 1995 to a high of 35.9% in 1998.

Source: University of Michigan, *Monitoring the Future National Survey Results on Drug Use, 1975-2005, Volume II: College Students and Adults Ages 18-45, 2006*, October 2006. (Acrobat file 2.31 MB)

Of high school seniors in 2005 --

- 44.8% reported having ever used marijuana/hashish
- 8.0% reported having ever used cocaine
- 1.5% reported having ever used heroin.

Source: University of Michigan, *Monitoring the Future National Results on Adolescent Drug Use: Overview of Key Findings 2005*, April 2006. (Acrobat file 442.77KB)

The increase in the use of marijuana has been especially pronounced. Between 1992 and 2005 past-month use of marijuana increased from:

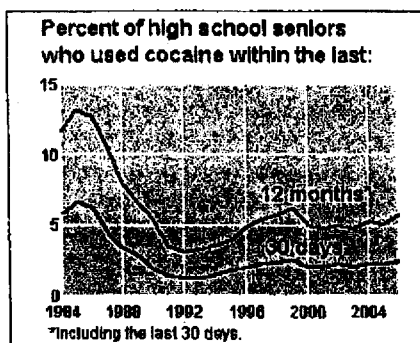
- 12% to 20% among high school seniors.
- 8% to 15% among 10th graders.
- 4% to 7% among 8th graders.

Reported use of marijuana by high school seniors during the past month peaked in 1978 at 37% and declined to its lowest level in 1992 at 12%.

The use of cocaine within the past month of the survey by high school seniors peaked in 1985 at 6.7%, up from 1.8% in 1975 at the survey's inception. Cocaine use declined to a low of 1.3% in 1992 and 1993. In 2005, 2.3% of high school seniors reported past-month cocaine use.

Source: University of Michigan, *Monitoring the Future National Results on Adolescent Drug Use: Overview of Key Findings 2005*, April 2006. (Acrobat file 442.77KB).

Cocaine use among high school seniors peaked in 1985.



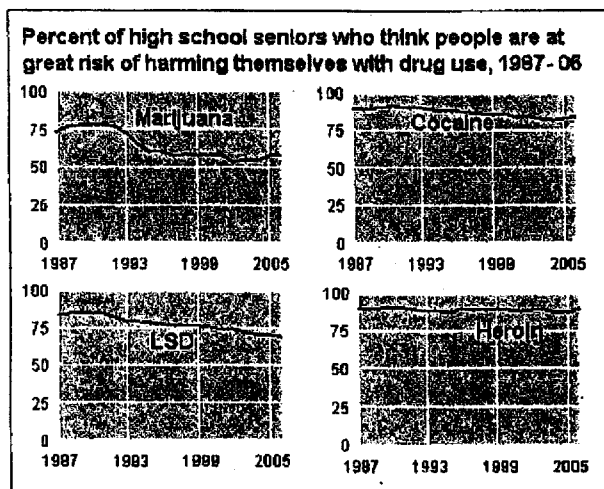
[D]

Click on the chart to view the data.

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB).

Perceived risk

From 1987 to 2006 the percentage of high school seniors that were asked, "How much do you think people risk harming themselves?" remained virtually stable. Those students answering "great risk" in regular use accounted for the following —



[D]

Click on the chart to view the data.

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB)

Student reports of availability of drugs

Percent of high school seniors reporting they could obtain drugs fairly easily or very easily, 2006

Marijuana	84.9%
Amphetamines	52.9
Cocaine	46.5
Barbiturates	43.8
Crack	36.8
LSD	29.0
Heroin	27.4
Crystal methamphetamine	26.7
Tranquilizers	24.4
PCP	23.1
Amyl/butyl nitrites	18.4

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB)

In 2005, 26% of all students in grades 9 through 12 reported someone had offered, sold, or given them an illegal drug on school property. There was no measurable change with the percentage of students who reported that drugs were offered, sold, or given to them at school between 2003 and 2005.

Males were more likely than females to report that drugs were offered, sold, or given to them on school property in each survey year between 1993 and 2005. In 2005, 29% of males and 22% of females reported availability of drugs.

Source: BJS jointly with the U.S. Department of Education, *Indicators of School Crime and Safety, 2006*, NCJ 214262, December 2006.

→ To the top

General population

According to data from the 2005 *National Household Survey on Drug Use and Health (NSDUH)* –

- 112 million Americans age 12 or older (46% of the population) reported illicit drug use at least once in their lifetime
- 14% reported use of a drug within the past year
- 8% reported use of a drug within the past month.

Data from the 2005 survey showed that marijuana and cocaine use is the most prevalent among persons age 18 to 25.

Drug use	Age of respondent, 2004		
	12-17	18-25	26 or older
Marijuana			
Last month	6.8%	16.6%	4.1%
Last year	13.3	28.0	6.9
Cocaine			
Last month	0.6%	2.6%	0.8%
Last year	1.7	6.9	1.5

Source: SAMHSA, Office of Applied Studies, 2005 *National Survey on Drug Use and Health: National Findings*, September 2006.

The *Drug Abuse Warning Network (DAWN)* monitors drug-related emergency department (ED) visits for the nation and for selected metropolitan areas. DAWN also collects data on drug-related deaths investigated by medical examiners and coroners in selected metropolitan areas and States.

In 2005, DAWN estimates that nearly 1.4 million emergency department visits nationwide were associated with drug misuse or abuse.

An estimated 818,696 drug-related emergency department visits involved a major substance of abuse. DAWN estimates that:

- Cocaine was involved in 448,481 ED visits.
- Marijuana was involved in 242,200 ED visits.
- Heroin was involved in 184,572 ED visits.
- Stimulants, including amphetamines and methamphetamine, were involved in 138,950 ED visits.
- Other illicit drugs, such as PCP, Ecstasy, and GHB, were much less frequent than any of the above.

Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, *Drug Abuse Warning Network, 2005: National Estimates of Drug-Related Emergency Department Visits*. DAWN Series D-28. DHHS Publication No. (SMA) 07-4256, Rockville, MD, 2007.

In 2003, 122 jurisdictions in 35 metropolitan areas and 6 States submitted mortality data to DAWN. The States, which are all new to DAWN, are Maine, Maryland, New Hampshire, New Mexico, Utah, and Vermont. DAWN cannot provide national estimates of drug-related deaths.

In the metropolitan areas, nearly half of drug misuse deaths, on average, involved a major substance of abuse (cocaine, heroin,

marijuana, stimulants, club drugs, hallucinogens, or non-pharmaceutical inhalants). Across the 6 States, major substances were reported in about a third of misuse deaths. Still, major substances were reported in 40% to 45% of drug misuse deaths in Maryland, New Mexico, and Utah. Descriptions of drug abuse deaths in the participating metropolitan areas are available in the *Mortality Data from the DAWN, 2003* report.

According to data from the *2003 Mortality Data from DAWN* -- Cocaine was the most frequently reported illicit drug. In the drug misuse deaths, cocaine was among the top 5 drugs in 28 of the 32 metropolitan areas and all of the 6 States. On average, cocaine alone or in combination with other drugs was reported in 39% of drug misuse deaths (range 8% to 70%). Alcohol was one of the 5 most common drugs in 30 of the 32 metropolitan areas and 5 of the 6 States. In 29 of the 32 metropolitan areas, more drug misuse deaths involved an opiate/opioid than any other drug.

Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, *Drug Abuse Warning Network, 2003: Area Profiles of Drug-Related Mortality*. DAWN Series D-27, OHS Publication No. (SMA) 05-4023, Rockville, MD, 2005.

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Bureau of Justice Statistics
www.ojp.usdoj.gov/bjs/
Send comments to naklize@usdoj.gov

OJP Freedom of Information Act page
Legal Policies and Disclaimers
Page last revised on April 11, 2007

Homeowner's Guide

May 2007

Compliments of Ted Bosley, Your Neighbor and RE Professional

Issue 16



Edward "Ted" Bosley
(949) 294-2126
TedBosley@yahoo.com

Service • Integrity • Commitment



WWW.TEDBOSLEY.COM
Great source for RE information,
tools plus Bi-monthly
OC Homeowner's Guide
Newsletter

Ted Bosley Appointed to SAH Project Advisory Committee

I started attending the SAH PAC meetings 5 years ago, mostly so that I could learn as much as possible about events affecting our community.

You, the readers of my periodic newsletters, have been the benefactors since I have shared with you much of what was learned in that forum as well as Supervisor, City Council and LAFCO meetings. Many of you have also been in attendance at those same meetings.

I appreciate being appointed to serve on the SAH Project Advisory Committee. This gives me the opportunity to serve on critical sub-committees that make recommendations to the Bd of Supervisors and the NB City Council on matters that have significant impact on our community.

Waterpointe to Start Development on Orchard

In a recent response to my inquiry about the timeline for this Westside SAH project, I received the following statement:

"We are still processing our final map with the County of Orange. Once recordation of the map occurs we are planning on starting the project. ... Once again I thank you for your assistance in getting this project approved."

Garrett Calacci,
Waterpointe Development Principal



Westside SAH Annexation Update

The next LAFCO hearing date is May 9th at 9:00 AM. The meeting will be held in the Hall of Administration, 12 Civic Center Plaza, Santa Ana, in the Planning Commission Hearing Room.

The City of Newport Beach's application for a sphere of influence change and concurrent annexation of West Santa Ana Heights and the City of Costa Mesa's application for a sphere of influence change for the Banning Ranch property will be considered by LAFCO on this date.

Staff reports for both proposals will be available for review on Wednesday afternoon, May 2, 2007, on the Orange County LAFCO website: www.orange.lafco.ca.gov. Click on the "Agenda and Minutes" link, then click on agenda item.

This is the meeting we all have been waiting for. LAFCO is suppose to come to a final resolution on the West Side Annexation to Newport at this meeting. PAC will be there to support Annexation as always.

Source of this information is www.SAHPAC.com

If you would like more information relating to the history of this effort please visit www.sahpac.com/sys-tmpl/westsideannexation.

Sober Living Homes Make Their Community Christmas Contribution

Were you as surprised as I by the amazing decorations exhibited by the residents of the 3 (at that time) Yellowstone Recovery homes during the Christmas holidays? One of the reasons was a little competition between the 3 homes along with the help the men's home provided to the other 2 women's homes.

Their effort also brought out the competitive spirit in some of the other homes in the neighborhood ...

Congratulations!!



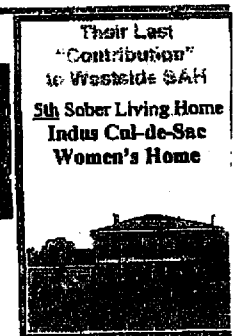
Indus Street
Women's Home



Redlands St.
Men's Home



Pegasus Street
Women's Home



Their Last
"Contribution"
to Westside SAH
5th Sober Living Home
Indus Cal-de-Sac
Women's Home

Golf Course or Parking Lot?

Daily Pilot Article on April 18th discusses this subject. If you do not take the Pilot you can go to www.dailypilot.com/articles/2007/04/18/politics/dpt-golfcourse18.txt to view it.

What I cannot understand is why anyone on the Airport Committee would suggest that a Car Rental Auto Storage facility should replace the Newport Beach Golf Course Back 9, that brings so much pleasure to so many, when their lease is up at the end of July, 2007.

(Continued on page 2)

Send an email to John.Moorlach@ocgov.com AND TedBosley@yahoo.com with your opinion of the possibility of not extending the lease for the NB Golf Course!! ... AND to let me know of your interest in participating in this season's \$100 drawing!!

City of Newport Beach
GROUP RESIDENTIAL USES – USE PERMIT APPLICATION
STANDARD GROUP RESIDENTIAL USE PERMIT APPLICATION
(Form 100 – Revised March 2008)

1. APPLICANT/FACILITY PROGRAM INFORMATION

STEP 1: Completely fill out Form 150 (attached).

STEP 2: Fill out the following:

TYPE OF ORGANIZATION:

☐ For Profit ☒ Nonprofit

☐ Other, please explain: _____

PROPERTY OWNERSHIP:

☐ Own ☐ Rent ☒ Lease ☐ Other (specify): _____

IS THE OPERATOR/MANAGER ALSO THE LESSEE OF THIS PROPERTY?

☒ Yes ☐ No

☐ If no, please explain: _____

IS THE APPLICANT OR PROGRAM OPERATOR PART OF A PARTNERSHIP, CORPORATION, FIRM, OR ASSOCIATION?

☒ Yes ☐ No

If yes, please fill out and attach either Form 200C (if 200C, applicants must fill out Form 200D) or Form 200P, whichever is applicable.

2. PROPERTY OWNER INFORMATION

Dr. A.M. Thames

Name of Property Owner where facility is proposed (if Corporation, legal name of Corporation)

28 Ima Loa Newport Beach, CA 92663
(Mailing Address of Property Owner) (City/State) (Zip)

(949) 678-9000 (949) 646-5296
(Telephone) (Fax number)

leisha@ca.rr.com
(E-Mail address)

1561 Indus, Newport Beach 119-361-08
(Subject Property Address) Assessor's Parcel Number (APN)

3. **SIMILAR USES**

A. Your Firm's Current Uses. Do you or your firm (or any entity or person affiliated with you or your firm) currently operate, manage, or own other group residential uses in Newport Beach?

☒ Yes ☐ No

If yes, cite address(es) of facility(ies) (attach more pages if necessary):

EXAMPLE:

1234 Main Street, Newport Beach	Unlicensed "Sober Living"	7
Site Address	Type of Use	Bed Capacity
1571 Pegasus, Newport Beach	Cert. Sober Living	18
Site Address	Type of Use	Bed Capacity
20172 Redlands Dr., Newport Beach	Cert. Sober Living	18
Site Address	Type of Use	Bed Capacity
1621 Indus, Newport Beach	Cert. Sober Living	18
Site Address	Type of Use	Bed Capacity
Site Address	Type of Use	Bed Capacity
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Site Address	Type of Use	Bed Capacity

B. Other Similar Uses. What uses, not operated by or affiliated with you or your firm, are of a similar type as your proposed use here in Newport Beach? Please cite address(es) of facility(ies) (attach more pages if necessary):

EXAMPLE:

[illegible]

C. Evidence of Need for this Extent of Use. Per NBMC §20.91A.030 (E), please attach Evidence of Capacity and Need by residents of Newport Beach for this capacity based on published sources.

4. YOUR FIRM'S HISTORIC USES

Per the requirements of NBMC §20.91A.030.G & H, in the past five (5) years, have you or your firm or any entity or person affiliated with you or your firm operated, managed, or owned other group residential uses in California?

☐ Yes ☒ No

If yes, show the site address(es) of each facility(ies) and show whether the facility(ies) have ever been in violation of Federal, State or local law (attach additional pages if necessary):

EXAMPLE:

1234 Main Street, Santa Barbara **ADP-Licensed Facility** **8**

Street Address, City

Type of Use

Bed Capacity

Has this facility or your operations at this facility, ever been in violation of State or local law?

☐ Yes

☒ No

If Yes, please explain: Applicant has not operated any other group residential uses in Newport Beach during the last 5 years. No home has been in violation of state or local law.

Facility #1

Street Address, City

Type of Use

Bed Capacity

Has this facility or your operations at this facility, ever been in violation of State or local law?

☐ Yes

☐ No

If Yes, please explain: _____

Facility #2

Street Address, City

Type of Use

Bed Capacity

Has this facility or your operations at this facility, ever been in violation of State or local law?

☐ Yes

☐ No

If Yes, please explain: _____

Facility #3

Street Address, City

Type of Use

Bed Capacity

Has this facility or your operations at this facility, ever been in violation of State or local law?

☐ Yes

☐ No

If Yes, please explain: _____

Facility #4

Street Address, City

Type of Use

Bed Capacity

Has this facility or your operations at this facility, ever been in violation of State or local law?

☐ Yes

☐ No

If Yes, please explain: _____

5. **LOCATION MAP AND SIMILAR USES**

Provide a **Location Map** showing the location of the proposed use plus all known conditional uses within a three-block radius. Include the property addresses of the proposed use and known conditional uses. Please consult the Newport Beach Planning Department (949-644-3225) for nearby conditional uses.

6. **SITE PLAN**

Provide a **Site Plan** that shows the facility's building footprint and property lines. Include property lines and building footprints on immediately adjacent parcels. Note the uses (i.e. *single family use, group residential use, or other*) on adjacent parcels.

7. **LICENSE AND PERMIT HISTORY OF APPLICANT**

A. Per NBMC §20.91A.030(H), please summarize the license and permit history of each facility applicant or operator has managed, owned, or operated in the State of California within the last five (5) years which require either a license or a permit by the State or by a locality (attach additional sheets if necessary):

Name of Facility

(Facility Address)

(City)

(Zip)

Please describe the nature of the license or use permit, the issuing agency, its reference number (if applicable), and any enforcement actions by any agency against the license or use permit:

B. Has the applicant ever voluntarily surrendered, had a denial, suspension, or revocation of a residential license for an alcoholism or drug abuse recovery or treatment facility or a facility licensed by the California Department of Alcohol and Drug Programs (ADP) or the California Department of Social Services - Community Care Licensing?

☐ Yes

☒ No

If yes, the date license was surrendered, denied, suspended, or revoked: _____

Reason for revocation, surrender, denial, or suspension: _____

C. Has the applicant ever voluntarily surrendered, had a denial, suspension, or revocation of a Use Permit or similar permit for a group residential use in this community or another community?

☐ Yes

☒ No

If yes, the date Use Permit (or similar) was surrendered, denied, suspended, or revoked: _____

Reason for revocation, surrender, denial, or suspension: _____

D. Has the applicant ever voluntarily surrendered, had a denial, suspension or revocation of a certification by any public or private agency other than ADP or the California Department of Social Services-Community Care Licensing for a group residential use in this community or another community?

☐ Yes ☒ No

If yes, the date Use Permit (or similar) was surrendered, denied, suspended, or revoked: _____

Reason for revocation, surrender, denial, or suspension: _____

8. **NATURE AND CHARACTERISTICS OF PROPOSED USE**

Per NBMC §20.91A.030(A-D), please provide the following information about each proposed facility (attach additional sheets if necessary). The components of this Section 8 (and other sections) comprise the *Operations and Management Plan* and *Rules of Conduct* envisioned by NBMC §20.91A.050.B:

A. **TYPE OF ALCOHOL AND/OR OTHER DRUG RECOVERY OR TREATMENT SERVICES PROVIDED (for ADP-licensed facilities only -- check all that apply):**

☐ Non-Medical Detoxification

☐ Group Sessions

☐ One-on-One Sessions

☐ Educational Sessions

☐ Recovery or Treatment Planning

☒ Other: None

B. **NUMBERS AND TYPES OF FACILITY USERS & STAFF:**

TOTAL OCCUPANCY OF FACILITY (This is the maximum number of individuals who live at the facility and are approved by the fire safety inspector.) These individuals include the residents receiving recovery, treatment or detoxification services, children of the residents, and staff. Staff includes individuals who work for the applicant in exchange for either monetary or in-kind compensation (e.g., room and board). Total occupancy cannot be exceeded for any reason. 12

MAXIMUM REQUESTED ADULT RESIDENT CAPACITY OF THE FACILITY (The number of adult residents that receive recovery, treatment or detoxification services at any one time, which cannot be greater than the total occupancy shown above): 0

MAXIMUM NUMBER AND AGE RANGE OF DEPENDENT CHILDREN WHO ARE SUPERVISED BY THEIR PARENT(S) IN THE FACILITY. This includes temporary residing (i.e., overnight, weekend visits) of dependent children. (Since there must always be at least one adult being served, the maximum number of dependent children housed must be at least one less than the total occupancy, determined by the fire inspector, as shown above): 0

Are all clients who reside on-site disabled persons? Yes

Number of staff who will reside on-site: 2

Maximum number of staff who will provide services during any one week to clients at the facility: 2

Provide the Facility Staffing Form shown as Form 400 to this Application.

Total number of employees of provider:

Please characterize the nature of staff services to the facility (i.e., nutritionists, massage therapists, counselors, maids, cooks, etc):

House Manager

Assist Manager

Maximum number of clients who will use the facility on any one day but reside elsewhere: 0

Maximum number of client visitors who will visit the facility during any one week: 0

Maximum number of others who will visit the facility during any one week: 0. Please explain:

C. BUILDING DIAGRAM/FLOOR PLAN

Include a Building Diagram showing all building(s) to be occupied, including a floor plan of all rooms intended for residents' use. Include the grounds showing buildings, setbacks, driveways, fences, storage areas, pools, gardens, recreational area and other spaces. All sketches shall show dimensions but need not be to scale. Identify the number of residents per bedroom and the location and the number of beds for all residents, including the location of beds for infants and other non-ambulatory persons. The Building Diagram supplied with this application must be accurate as to existing conditions in the building and must be consistent with the building plans currently on file with the Newport Beach Building Department for permitted construction.

D. DURATION OF TYPICAL CLIENT STAY IN FACILITY (In days): 365

If you wish, please explain:

E. IS THE FACILITY ACCESSIBLE TO INDIVIDUALS IN WHEELCHAIRS OR OTHER NONAMBULATORY CONDITIONS?

☐ Yes ☒ No

NOTE: The Americans with Disabilities Act of 1990 (ADA) is a comprehensive federal anti-discrimination law for people with disabilities. The City reminds all providers of residential recovery facilities that discrimination against persons with disabilities is prohibited. Please contact Newport Beach's Building Department (949-644-3275) for specific ADA requirements that may apply to your facility.

F. ACTIVITY INFORMATION

Hours which facility will be in use:

☒ 24/7 ☐ Other (please describe) _____

Will there be a curfew? If so, please note quiet hours:

☒ 10 p.m. – 8 a.m. ☐ Other (please describe) _____

Besides household activities, what types of care-related activities will occur on-site, and how many residents and non-residents (including staff and clients from other facilities) will attend?

☐ "AA"-type meetings _____ ☐ Physical Fitness (gym, yoga, etc) _____
☐ ADP-Treatment (see 5A) _____ ☐ Other wellness (massage, etc) _____
☐ Meal preparation/delivery _____ ☐ Other: _____

Provide the Weekly Schedule of Services shown as Form 500 to this Application.

G. DELIVERY INFORMATION:

What types of deliveries will occur at the facility and how often (per day or per week – circle whichever is applicable) will they occur?

☐ Laundry Services: _____ /day or week ☒ Trash disposal or recycling: 1 /day or week
☐ Meals: _____ /day or week ☐ Business products: _____ /day or week
☐ Correspondence, packages (other than USPS): _____ /day or week
☐ Medical Products/Medical Waste Pickup: _____ /day or week
☐ Other: _____ /day or week

H. TRANSPORTATION AND PARKING:

Will clients residing on-site be allowed to use personal vehicles and/or keep them on-site or nearby?

☒ Yes ☐ No

If Yes, describe where clients will park personal vehicles (garage, carport, on-street location, other – if on-street, be specific about which streets)

Four residents have personal vehicles, which they park only in the garage and/or garage driveway.

If No, describe other modes of transportation that clients will use (bus, other transit, bicycle, other).

Please provide a **Route Map** showing transit and travel routes that will be used to transport clients off-site, showing destinations of travel and approximate times of departure and return.

Will staff serving the facility be allowed to drive personal vehicles to the site?

☒ Yes ☐ No

If Yes, describe where staff will park personal vehicles (garage, carport, on-street location, other – if on-street, be specific about which streets)

In driveway

NOTE: The City may not authorize on-street parking for clients or staff depending upon how impacted the facility's streets are.

I. MEDICAL AND BIO-WASTE

NBMC §6.04.120 (Health and Sanitation: Prohibited Materials) prohibits the disposal of certain medical waste or bio-waste into the City's refuse disposal system. Syringes, needles, urinalysis cups, and other waste must be disposed of in accordance with the NBMC and other applicable laws. If you are uncertain as to what wastes can be disposed of in the City's disposal system, contact the City's General Services Department at 949-644-3066.

Applicants who will be disposing medical waste or other bio-waste must provide a Disposal Plan for Medical and Bio-Waste showing how and where these wastes are disposed of (required by NBMC §20.91A.030.I).

Please attach the Disposal Plan if applicable.

J. RULES OF CONDUCT – GOOD NEIGHBOR PRINCIPLES

If you have them, please include any documents that describe rules of client conduct and/or *Good Neighbor Principles* that your facility's staff and clients will adhere to if the City issues a Use Permit for this facility.

The City of Newport Beach has developed *Good Neighbor Principles* for these uses (see the City's website under Group Residential Uses).

Please state whether you agree voluntarily to comply with the City's *Good Neighbor Principles*:

☒ Yes ☐ No

K. OTHER AVAILABLE CERTIFICATIONS

NBMC §20.91A.050.C.4 directs that applicants shall attain certification (or similar validation), where available, from a governmental agency or qualified non-profit organization. This includes:

- The Orange County Sheriff's Department's Orange County Adult Alcohol and Drug Sober Living Facilities Certification Program (see www.ocsd.org for more information or contact Certificate Coordinator Lt. Jeff Bardzik at 714-773-4523 or jbardzik@ocsd.org or Margo Grise at 714-773-4521 at mgrise@ocsd.org. This certification is required.
- The Orange County Sober Living Network (see http://www.soberhousing.net/orange_county.html or contact Grant McNiff at 714-875-2954. This certification is recommended.

You do not have to attain the OCSD certification to apply for a Use Permit, but we suggest that you attain the certification within a reasonable amount of time (twelve [12] months) following your application submittal. Should a Use Permit be issued, it may include a condition that certification be obtained within a stated time period. If you have attained this certification prior to applying for the Use Permit, verify here that you have attained this certification, and attach the verifying document from the certifying entity:

☐ Orange County Adult Alcohol and Drug Sober Living Facilities Certification (required)

☐ Orange County Sober Living Network (recommended)

☒ Other (please describe) Oxford Chartered House

L. SECONDHAND SMOKE LIMITATIONS

NBMC §20.91A.050.A directs that "no staff, clients, guests, or any other uses of the facility may smoke in an area from which the secondhand smoke may be detected on any parcel other than the parcel upon which the facility is located. Check and sign here to acknowledge this requirement and your use's adherence to it:

☒ I acknowledge that I will control secondhand smoke on my facility such that no secondhand smoke may be detected on any parcel other than the parcel upon which my facility is located.

Signature: Leisha Mello

Date: 5/20/08

9. APPLICANT OBLIGATIONS

- A. The "owner of record" of the property or an authorized agent must sign this Application. Signing the application under Section 10 means that the applicant certifies, under penalty of perjury, that the information provided within the Application and its attachments is true and correct. Per NBMC §20.90.030.C, false statements are grounds for denial or revocation.
- B. The Applicant acknowledges that he or she must comply with all other Federal, State, and local laws and regulations relating to this use. The Applicant understands that a violation of Federal, State, and local laws and regulations is grounds for revocation of the Permit. The Applicant understands and acknowledges that it is against California law to provide treatment (as defined) in an unlicensed facility.
- C. If the City issues a Use Permit based on the information provided in this Application, the Applicant's signature below certifies his or her agreement to comply with the terms of the Use Permit. The Applicant understands and acknowledges that non-compliance with the terms of the Use Permit is grounds for revocation of the Permit.

Revocation of the Use Permit. NBMC §20.96.040.E provides that the City can revoke a Use Permit if:

- The permit was issued under erroneous information or misrepresentation; or
- The applicant made a false or misleading statement of material fact, or omitted a material fact; or
- The conditions of use or other regulations or laws have been violated; or
- There has been a discontinuance of use for 180 days or more.

10. AUTHORIZED SIGNATURE(S) OF APPLICANT

THE UNDERSIGNED ASSURES THAT THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT AND THAT THE APPLICANT HAS READ AND UNDERSTOOD HIS OR HER OBLIGATIONS UNDER ANY USE PERMIT ISSUED BASED ON THIS APPLICATION.

- A. If the applicant is a sole proprietor, the application shall be signed by the proprietor.
- B. If the applicant is a partnership, the application shall be signed by each partner.
- C. If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or the individual legally responsible for representing the agency.

D. The applicant(s) affirms that the facts contained in this application and supporting documents are true and correct.

Lisha Mello 5/20/08 Administrator
(Signature) (Title)
(Date)

Dr Am Thomas 5/20/08 CEO
(Signature) (Title)
(Date)

(Signature) (Title)
(Date)

Quality Sober Living Homes in Southern California

THE SOBER LIVING NETWORK

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The Sober Living Network

A SOBER HOUSING VISION

Someday there will be **recovery supportive housing and community centers throughout the United States.** These clusters will be developed with a variety that will include individual houses, apartments, and congregate living accommodations. There will be a mixture of housing with normal-cost apartments for recovery veterans and low-cost, supervised shared housing for those in early recovery. In many accommodations there will be specially designed housing sections for women and/or men with children that have play areas and childcare. Sober housing clusters will be designed to accommodate persons who are physically and mentally challenged.

Sober housing clusters will be **recovery-promoting incubators.** The clusters will include meeting spaces to host self-help and educational meetings, recreational, and social events. They will be operated within a democratic culture and a high level of recovery enthusiasm.

These clusters will become **islands of sobriety in our alcohol and drug using society.** Sober housing and community centers will become continuously available as a recovery assistance resource for alcoholics, addicts, and family members. They will be available and noticeable not only to those who are fully into their addiction, but those who are in their earlier or experimental stages. Communities of stable recovering persons can easily absorb newly recovering persons into their community.

Currently many sober living homes are trying to meet the needs of newly recovering persons without the benefit of having a core of stable recovering residents or the management resources to meet their recovery service needs.

The rationale for cluster housing is that the **self-help learning process comes in bits and pieces.** The greater the exposure to a comprehensive recovery environment with many recovery activities and a predominance of recovering people, the greater chance a person has to learn recovery. The need for a balance of recovery experiences became evident when twelve-step meetings dominated by newcomers were not as effective in assisting recovery as those meetings where most members have long-term stable recovery.

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The Sober Living Network

COMMUNITY RECOVERY SUPPORT RESOURCES

Community recovery resources offer a practical and cost-efficient way to assist alcoholics, addicts and family members to enter and maintain long-term recovery.

The current alcohol and drug treatment system does not have the capacity to meet the long-term recovery assistance needs required to meet the needs of the many. The treatment system is too heavily invested in short-term treatment and too little invested in the development of safe and healthy community recovery promoting environments and activities that are constantly available to support recovery and life style enhancements.

Alcohol and drug treatment programs have been formatted by government and academic institutions into quality "people processing" treatment stations that are now too costly per person assisted to significantly reduce addiction problems.

Community recovery is based on the postulate that safe and sober places filled with healthy recovery activities provide the environments, motivation and recovery tools for alcoholics, addicts and family members to assist (process) themselves. Operators maintain healthy and safe environments and promote individual recovery responsibility. Community recovery resources include self-help meetings, Alano clubs-which host self-help activity, community recovery centers, sober living housing, and sober recreational and social events. Community recovery centers are self-service spaces that offer education sessions, host self-help groups, hold social/recreational events and have counseling and therapy available by self-selection. Community recovery centers, activities and housing are easily adaptable to meet the broad ethnic, cultural and physically challenged needs.

Community recovery resources are assisting millions of alcoholics, addicts and family members in recovery from alcoholism and other drug addictions with little or no support from government and health insurance funding sources. Sober living homes, Alano clubs and community recovery centers are primarily created and supported by recovering persons motivated by a call to be of service to others.

The Sober Living Network
P.O. Box 5235, Santa Monica, CA 90409
(310) 396-5270

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<http://www.soberhousing.net/community.html>

5/15/2008

YS 00098



The National Council on Alcoholism and Drug Dependence fights the stigma and the disease of alcoholism and other drug addictions.

Facts and Information

Alcoholism and Drug Dependence Are America's Number One Health Problem

The cost and consequences of alcoholism and drug dependence place an enormous burden on American society. As the nation's number one health problem, addiction strains the health care system, the economy, harms family life and threatens public safety.

Substance abuse crosses all societal boundaries, affects both genders, every ethnic group, and people in every tax bracket. Scientific documentation defines alcoholism and drug dependence as a disease that has roots in both genetic susceptibility and personal behavior.

THE SCOPE OF THE PROBLEM

- *There are more deaths and disabilities each year in the U.S. from substance abuse than from any other cause.* ¹
- *About 18 million Americans have alcohol problems; about 5 to 6 million Americans have drug problems.* ²
- *More than half of all adults have a family history of alcoholism or problem drinking.* ³
- *More than nine million children live with a parent dependent on alcohol and/or illicit drugs.* ⁴

THE CONSEQUENCES

- *One-quarter of all emergency room admissions, one-third of all suicides, and more than half of all homicides and incidents of domestic violence are alcohol-related.* ⁵

- *Heavy drinking contributes to illness in each of the top three causes of death: heart disease, cancer and stroke.* ⁶

- *Almost half of all traffic fatalities are alcohol-related.* ⁷
- *Between 48% and 64% of people who die in fires have blood alcohol levels indicating intoxication.* ⁸
- *Fetal alcohol syndrome is the leading known cause of mental retardation.* ⁹

THE COST

- *Alcohol and drug abuse costs the American economy an estimated \$276 billion per year in lost productivity, health care expenditures, crime, motor vehicle crashes and other conditions.* ¹⁰
- *Untreated addiction is more expensive than heart disease, diabetes and cancer combined.* ¹¹
- *Every American adult pays nearly \$1,000 per year for the damages of addiction.* ¹²

SO, WHAT CAN BE DONE?

Like other diseases, addiction can be overcome with proper treatment, prevention and more research. By increasing access to care, the costly toll on society and the burden it places on families can be reduced. Research shows conclusively that successful prevention and treatment leads to reductions in traffic fatalities, crime, unwanted pregnancy, child abuse, HIV, cancer and heart disease. Treatment reduces drug use, improves health, improves job performance, reduces involvement with the criminal justice system, reduces family dysfunction and improves quality of life.

The Comprehensive Assessment Treatment Outcomes Registry Data in Ohio have documented dramatic results in decreasing occupational problems, including the following reductions after treatment:

- *Absenteeism decreased by 89%*

- *Tardiness decreased by 92%*
- *Problems with supervisors decreased by 56%*
- *Mistakes in work decreased by 70%*
- *Incomplete work decreased by 81%* ¹³

Additionally, a California Study found significant decreased health care costs from before to after treatment in:

- *Hospitalizations for physical health problems (-36%)*
- *Drug overdose hospitalizations (-58%)*
- *Mental health hospitalizations (-44%)*
- *The number of emergency room visits (-36%)*
- *The total number of hospital days (-25%)* ¹⁴

Americans increasingly recognize that alcoholism and drug dependence is a disease with consequences that affect both physical and behavioral health. Diagnostic and treatment services have changed in recent years and modern treatment, when adequately provided, enables a great many people to recover and rebuild productive lives.

It is important that the public be aware of evidence generated by scientific inquiry, clinical evaluation and clinical experience. The evidence demonstrates that treatment for alcohol and other drug abuse works. Treatment not only saves lives, it also saves dollars that would otherwise be spent in other areas of medical care and social services. For every dollar spent on addiction treatment, seven dollars is saved in reduced health care costs. ¹⁵

The National Council on Alcoholism and Drug Dependence is dedicated to fighting the stigma and the disease of alcoholism and other drug addictions by providing education, information, help and hope to the public. NCADD advocates prevention, intervention, and treatment through a network of 97 affiliates across the United States. For more information, visit: www.ncadd.org.

Alcoholism and drug dependence are treatable and millions of people achieve recovery.

SOURCES

1. "Substance Abuse: The Nation's Number One Health Problem," Institute for Health Policy, Brandeis University, 1993.

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Compiled 6/02



National Council on Alcoholism and Drug Dependence, Inc.

244 East 58th Street, 4th Floor, New York, NY 10022
phone: 212/269-7797 fax: 212/269-7510
email: national@ncadd.org <http://www.ncadd.org>
HOPE LINE: 800/NCA-CALL (24-hour Affiliate referral)

General population

According to data from the 2005 National Household Survey on Drug Use and Health (NSDUH) --

- 112 million Americans age 12 or older (46% of the population) reported illicit drug use at least once in their lifetime
- 14% reported use of a drug within the past year
- 8% reported use of a drug within the past month.

Data from the 2005 survey showed that marijuana and cocaine use is the most prevalent among persons age 18 to 25.

Drug use	Age of respondent, 2004		
	12-17	18-25	26 or older
Marijuana			
Last month	6.8%	16.6%	4.1%
Last year	13.3	28.0	6.9
Cocaine			
Last month	0.6%	2.6%	0.8%
Last year	1.7	6.9	1.5

Source: SAMHSA, Office of Applied Studies, 2005 National Survey on Drug Use and Health: National Findings, September 2006.

The Drug Abuse Warning Network (DAWN) monitors drug-related emergency department (ED) visits for the nation and for selected metropolitan areas. DAWN also collects data on drug-related deaths investigated by medical examiners and coroners in selected metropolitan areas and States.

In 2006, DAWN estimates that nearly 1.4 million emergency department visits nationwide were associated with drug misuse or abuse.

An estimated 816,696 drug-related emergency department visits involved a major substance of abuse. DAWN estimates that:

- Cocaine was involved in 448,481 ED visits.
- Marijuana was involved in 242,200 ED visits.
- Heroin was involved in 164,572 ED visits.
- Stimulants, including amphetamines and methamphetamine, were involved in 138,950 ED visits.
- Other illicit drugs, such as PCP, Ecstasy, and GHB, were much less frequent than any of the above.

Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, Drug Abuse Warning Network, 2006: National Estimates of Drug-Related Emergency Department Visits. DAWN Series D-29, DHHS Publication No. (SMA) 07-4256, Rockville, MD, 2007.

In 2003, 122 jurisdictions in 35 metropolitan areas and 6 States submitted mortality data to DAWN. The States, which are all new to DAWN, are Maine, Maryland, New Hampshire, New Mexico, Utah, and Vermont. DAWN cannot provide national estimates of drug-related deaths.

In the metropolitan areas, nearly half of drug misuse deaths, on average, involved a major substance of abuse (cocaine, heroin, marijuana, stimulants, club drugs, hallucinogens, or non-pharmaceutical inhalants). Across the 6 States, major substances were reported in about a third of misuse deaths. Still, major substances were reported in 40% to 45% of drug misuse deaths in Maryland, New Mexico, and Utah. Descriptions of drug abuse deaths in the participating metropolitan areas are available in the Mortality Data from the DAWN, 2003 report.

According to data from the 2003 Mortality Data from DAWN -- Cocaine was the most frequently reported illicit drug. In the drug misuse deaths, cocaine was among the top 5 drugs in 28 of the 32 metropolitan areas and all of the 6 States. On average, cocaine alone or in combination with other drugs was reported in 39% of drug misuse deaths (range 6% to 70%). Alcohol was one of the 5 most common drugs in 30 of the 32 metropolitan areas and 5 of the 6 States. In 29 of the 32 metropolitan areas, more drug misuse deaths involved an opiate/opioid than any other drug.

Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, Drug Abuse Warning Network, 2003: Area Profiles of Drug-Related Mortality. DAWN Series D-27, DHHS Publication No. (SMA) 05-4023, Rockville, MD, 2005.

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Youth

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Use

The Monitoring the Future Study asked high school seniors, "On how many occasions, if any, have you used drugs or alcohol during the last 12 months or month?"

Reported drug and alcohol use by high school seniors, 2006

Drugs	Used within the last:	
	12 months*	30 days
Alcohol	66.5%	45.3%
Marijuana	31.6	18.3
Other opiates	9.0	3.8
Stimulants	8.1	3.7
Sedatives	6.6	3.0
Tranquilizers	6.6	2.7
Cocaine	5.7	2.5
Hallucinogens	4.8	1.5
Inhalants	4.5	1.5
Steroids	1.8	1.1
Heroin	0.8	0.4

*Including the last month.
Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB)

Self-reports of drug use among high school seniors may under represent drug use among youth of that age because high school dropouts and truants are not included, and these groups may have more involvement with drugs than those who stay in school.

Percent of all college students, 1995-2006

Drug use	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Marijuana											
Daily within											
last month	3.7%	2.8%	3.7%	4.0%	4.0%	4.8%	4.5%	4.1%	4.7%	4.5%	4.0%
Last month	18.6	17.5	17.7	18.6	20.7	20.0	20.2	19.7	19.3	18.9	17.1
Last year	31.2	33.1	31.8	35.9	35.2	34.0	35.6	34.7	33.7	33.3	33.3
Cocaine											
Daily within											
last month	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	*	0.0%	0.1%
Last month	0.7	0.8	1.6	1.8	1.2	1.4	1.9	1.8	1.9	2.4	1.8
Last year	3.6	2.9	3.4	4.6	4.8	4.8	4.7	4.8	5.4	6.6	5.7

* Less than 0.05%

Rates of past year cocaine use by college students have varied over the past 10 years from a low of 2.9% in 1996 to a high of 5.7% in 2005. Past year marijuana use has ranged from a low of 31.2% in 1995 to a high of 35.9% in 1998.

Source: University of Michigan, *Monitoring the Future National Survey Results on Drug Use, 1975-2006, Volume II: College Students and Adults Ages 19-45, 2006*, October 2006. (Acrobat file 2.31 MB)

Of high school seniors in 2006 --

- 44.8% reported having ever used marijuana/hashish
- 8.0% reported having ever used cocaine
- 1.5% reported having ever used heroin.

Source: University of Michigan, *Monitoring the Future National Results on Adolescent Drug Use: Overview of Key Findings 2005*, April 2006. (Acrobat file 442.77KB)

The increase in the use of marijuana has been especially pronounced. Between 1992 and 2005 past-month use of marijuana increased from:

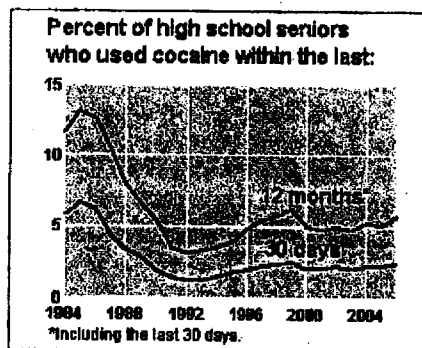
- 12% to 20% among high school seniors.
- 8% to 15% among 10th graders.
- 4% to 7% among 8th graders.

Reported use of marijuana by high school seniors during the past month peaked in 1978 at 37% and declined to its lowest level in 1992 at 12%.

The use of cocaine within the past month of the survey by high school seniors peaked in 1985 at 6.7%, up from 1.9% in 1975 at the survey's inception. Cocaine use declined to a low of 1.3% in 1992 and 1993. In 2005, 2.3% of high school seniors reported past-month cocaine use.

Source: University of Michigan, *Monitoring the Future National Results on Adolescent Drug Use: Overview of Key Findings 2005*, April 2006. (Acrobat file 442.77KB).

Cocaine use among high school seniors peaked in 1985.



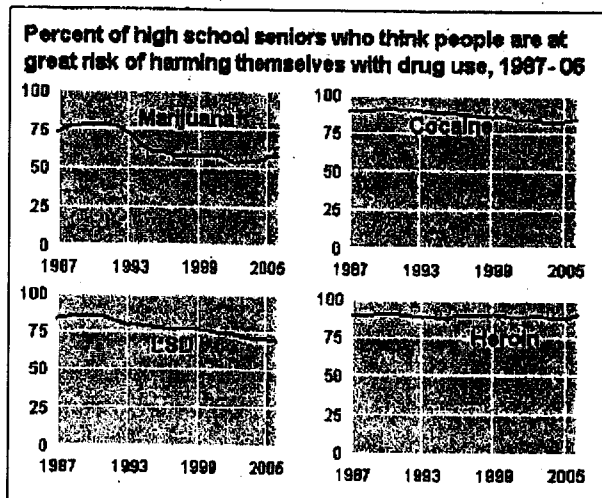
[D]

Click on the chart to view the data.

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB).

Perceived risk

From 1987 to 2006 the percentage of high school seniors that were asked, "How much do you think people risk harming themselves?" remained virtually stable. Those students answering "great risk" in regular use accounted for the following --



[D]

Click on the chart to view the data.

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB)

Student reports of availability of drugs

Percent of high school seniors reporting they could obtain drugs fairly easily or very easily, 2006

Marijuana	84.9%
Amphetamines	52.9
Cocaine	48.5
Barbiturates	43.8
Crack	38.8
LSD	29.0
Heroin	27.4
Crystal methamphetamine	26.7
Tranquilizers	24.4
PCP	23.1
Amyl/butyl nitrites	18.4

Source: Press release: *Teen drug use continues down in 2006, particularly among older teens; but use of prescription-type drugs remains high*, University of Michigan News and Information Services, December 21, 2006. (Acrobat file 576.81KB)

In 2005, 25% of all students in grades 9 through 12 reported someone had offered, sold, or given them an illegal drug on school property. There was no measurable change with the percentage of students who reported that drugs were offered, sold, or given to them at school between 2003 and 2006.

Males were more likely than females to report that drugs were offered, sold, or given to them on school property in each survey year between 1993 and 2005. In 2005, 29% of males and 22% of females reported availability of drugs.

Source: BJS jointly with the U.S. Department of Education, *Indicators of School Crime and Safety, 2006*, NCJ 214262, December 2006.

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General population

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marijuana, stimulants, club drugs, hallucinogens, or non-pharmaceutical inhalants). Across the 6 States, major substances were reported in about a third of misuse deaths. Still, major substances were reported in 40% to 45% of drug misuse deaths in Maryland, New Mexico, and Utah. Descriptions of drug abuse deaths in the participating metropolitan areas are available in the *Mortality Data from the DAWN, 2003* report.

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Source: U. S. Department of Health and Human Services, SAMHSA, Office of Applied Studies, *Drug Abuse Warning Network, 2003: Area Profiles of Drug-Related Mortality*. DAWN Series D-27, DHHS Publication No. (SMA) 05-4023, Rockville, MD, 2005.

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Homeowner's Guide

May 2007

Compliments of Ted Bosley, Your Neighbor and RE Professional

Issue 16



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Ted Bosley Appointed to SAH Project Advisory Committee

I started attending the SAH PAC meetings 5 years ago, mostly so that I could learn as much as possible about events affecting our community.

You, the readers of my periodic newsletters, have been the benefactors since I have shared with you much of what was learned in that forum as well as Supervisor, City Council and LAFCO meetings. Many of you have also been in attendance at those same meetings.

I appreciate being appointed to serve on the SAH Project Advisory Committee. This gives me the opportunity to serve on critical sub-committees that make recommendations to the Bd of Supervisors and the NB City Council on matters that have significant impact on our community.

Waterpoints to Start Development on Orchard

In a recent response to my inquiry about the timeline for this Westside SAH project, I received the following statement:

"We are still processing our final map with the County of Orange. Once recordation of the map occurs we are planning on starting the project. ... Once again I thank you for your assistance in getting this project approved."

Garrett Calacci,
Waterpoints Development Principal



Westside SAH Annexation Update

The next LAFCO hearing date is May 9th at 9:00 AM. The meeting will be held in the Hall of Administration, 12 Civic Center Plaza, Santa Ana, in the Planning Commission Hearing Room.

The City of Newport Beach's application for a sphere of influence change and concurrent annexation of West Santa Ana Heights and the City of Costa Mesa's application for a sphere of influence change for the Banning Ranch property will be considered by LAFCO on this date.

Staff reports for both proposals will be available for review on Wednesday afternoon, May 2, 2007, on the Orange County LAFCO website: www.orange.LAFCO.ca.gov. Click on the "Agenda and Minutes" link, then click on agenda item.

This is the meeting we all have been waiting for. LAFCO is suppose to come to a final resolution on the West Side Annexation to Newport at this meeting. PAC will be there to support Annexation as always.

Source of this information is www.SAHPAC.com

If you would like more information relating to the history of this effort please visit www.sahpac.com/svs-tmpl/westsideannexation.

Sober Living Homes Make Their Community Christmas Contribution

Were you as surprised as I by the amazing decorations exhibited by the residents of the 3 (at that time) Yellowstone Recovery homes during the Christmas holidays? One of the reasons was a little competition between the 3 homes along with the help the men's home provided to the other 2 women's homes.

Their effort also brought out the competitive spirit in some of the other homes in the neighborhood ...

Congratulations!!

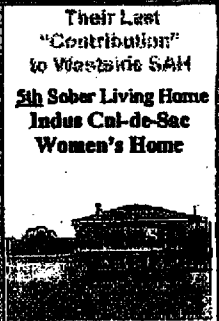


Indus Street
Women's Home

Redlands St.
Men's Home



Pegasus Street
Women's Home



Their Last
"Contribution"
to Westside SAH
5th Sober Living Home
Indus Cal-de-Sac
Women's Home

Golf Course or Parking Lot?

Daily Pilot Article on April 18th discusses this subject. If you do not take the Pilot you can go to www.dailypilot.com/articles/2007/04/18/politics/dpt-golfcourse18.txt to view it.

What I cannot understand is why anyone on the Airport Committee would suggest that a Car Rental Auto Storage facility should replace the Newport Beach Golf Course Back 9, that brings so much pleasure to so many, when their lease is up at the end of July, 2007.

(Continued on page 2)

Send an email to John.Moorlach@ocgov.com AND TedBosley@yahoo.com with your opinion of the possibility of and extending the lease for the NB Golf Course!! ... AND to let me know of your interest in participating in this season's \$100 drawing!!

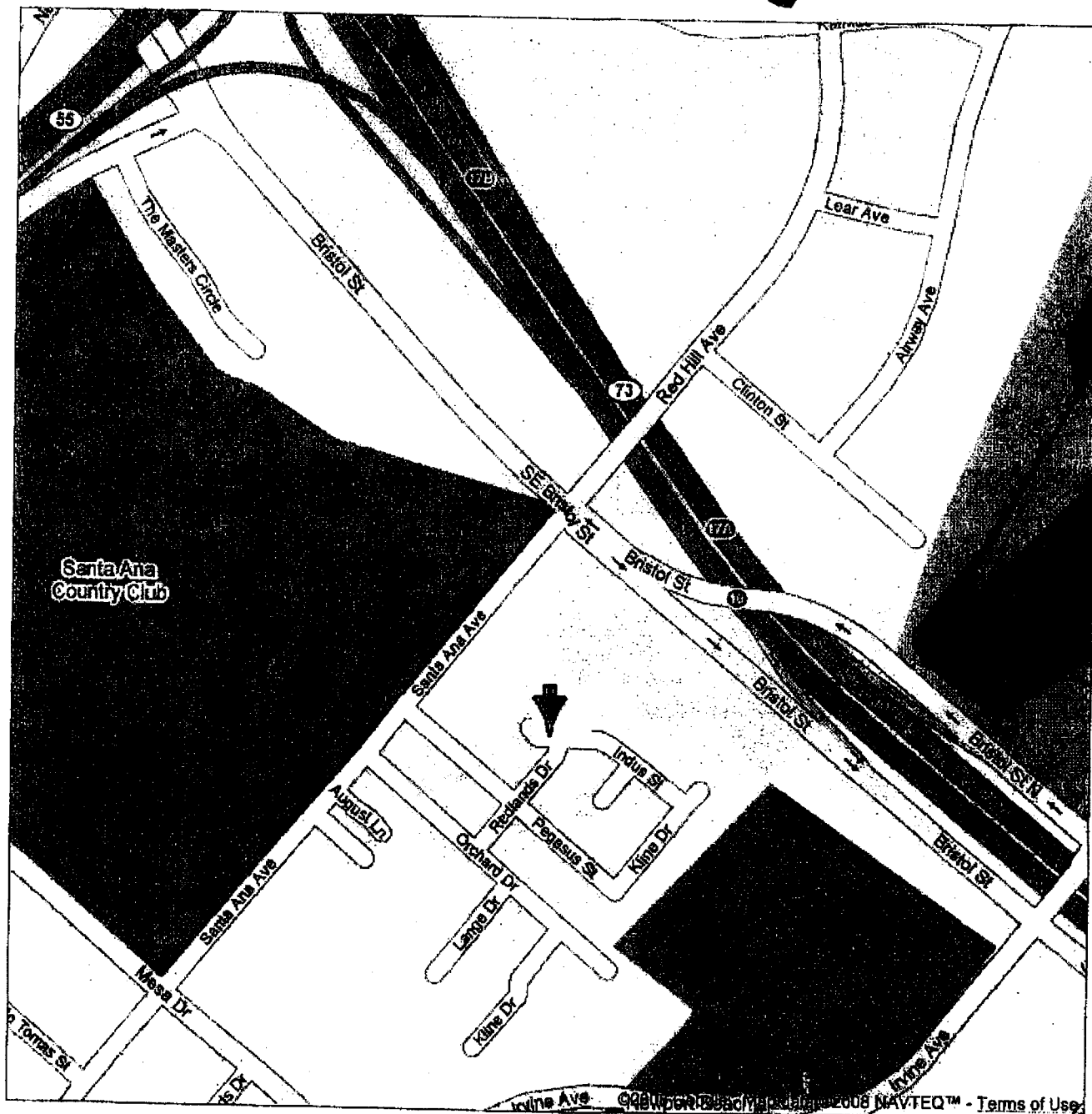
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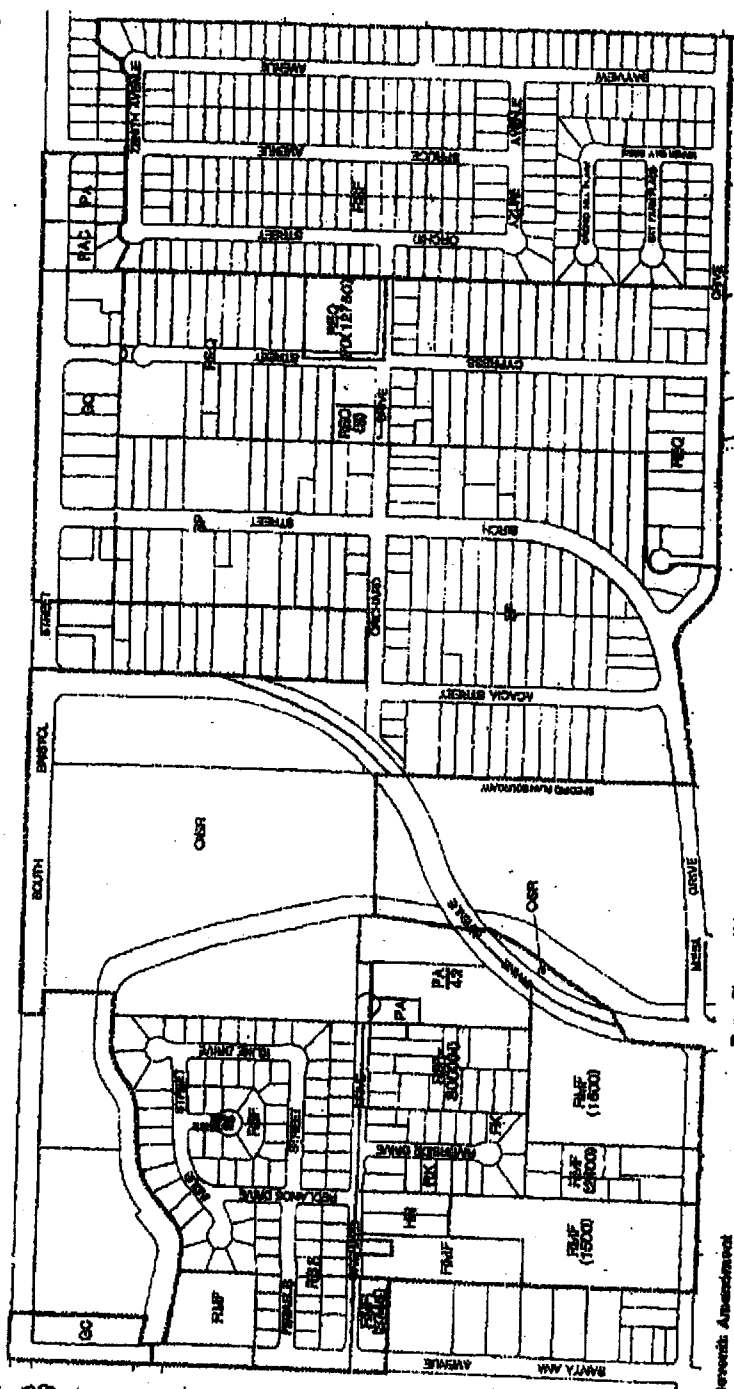


Address 1561 Indus St
Santa Ana, CA 92707

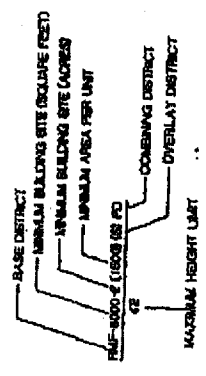
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 - REC RESIDENTIAL EQUESTRIAN
 - REK RESIDENTIAL EQUINE
 - RES RESIDENTIAL SINGLE FAMILY
 - RMF RESIDENTIAL MULTIPLE FAMILY
 - RIH HORTICULTURAL INDOOR
- Zone Change 20-05-05**
- SC GENERAL COMMERCIAL
 - BP BUSINESS PARK
 - PA PROFESSIONAL AND ADMINISTRATIVE OFFICE
 - PGC PROFESSIONAL AND ADMINISTRATIVE CONSOLIDATION
 - PD PLANNED DEVELOPMENT
 - CS COMMERCIAL STABLE
 - CO COMMERCIAL TURBULENCE



LAND USE DISTRICT MAP

SANTA ANA HEIGHTS SPECIFIC PLAN

ACCEPTED AND FILED AT THE
COUNTY CLERK'S OFFICE
PLANNING AND DEVELOPMENT SERVICES
DEPARTMENT
DATE: 10/11/2005
BY: [Signature]
COUNTY CLERK - RECORDS

WE HEREBY CERTIFY THAT THIS
LAND USE DISTRICT MAP
WAS APPROVED BY THE ORANGE
COUNTY PLANNING COMMISSION IN
AND ADOPTED BY ORDINANCE NO. 21-01
BY THE ORANGE COUNTY BOARD OF SUPERVISORS
ON 10/11/2005

[Signature]
BY THOMAS S. KOTHEIS
DIRECTOR OF PLANNING
AND DEVELOPMENT SERVICES
DEPARTMENT

Attachment 7A

1. 1571 Pegasus, Newport Beach, CA 92707
 - a. Certified Sober Living Home
 - b. Original Certification: April, 2005
2. 1621 Indus St., Newport Beach, CA 92707
 - a. Certified Sober Living Home
 - b. Original Certification: April, 2005
3. 20172 Redlands Dr., Newport Beach, CA 92707
 - a. Certified Sober Living Home
 - b. Original Certification: April, 2005
4. 1561 Indus, Newport Beach, CA 92707
 - a. Certified Sober Living Home
 - b. Original Certification: April, 2005

SECRET

Use this form to identify all staff of the facility/program. Designate volunteers by placing a "V" after their name.

[illegible]

City of Newport Beach
 GROUP RESIDENTIAL USES - USE PERMIT APPLICATION
 ADMINISTRATOR/DIRECTOR INFORMATION
 (Form 150 - February 2008)

IDENTIFYING INFORMATION

NAME <u>Dr. Anna Marie Thames</u>		TELEPHONE NUMBER AT WHICH OPERATOR MAY BE CONTACTED AT ALL TIMES (NBMC §20.91A.050.B) <u>(949) 678-9000</u>
TITLE <u>CEO</u>		
ADDRESS <u>28 Ima Loa Newport Bch, Ca</u>		
OTHER NAME(S) USED BY ADMINISTRATOR/DIRECTOR <u>Honey Thames</u>		

EDUCATION

EDUCATION	CIRCLE THE HIGHEST GRADE YOU COMPLETED 1 2 3 4 5 6 7 8 9 10 11 12	HIGH SCHOOL GRADUATE		YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
		PASSED HIGH SCHOOL EQUIVALENCY TESTS		YES <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
NAME AND LOCATION OF COLLEGE OR UNIVERSITY	COURSE OF STUDY	COMPLETED SEMESTER UNITS	QUARTER UNITS	DEGREE OBTAINED	DATE COMPLETED
<u>UCLA</u>	<u>Education</u>			<u>Ph.D.</u>	<u>1976</u>
<u>Univ. of Houston</u>	<u>Business</u>			<u>B.A.</u>	<u>1967</u>
<u>Univ. of Texas</u>	<u>Literature</u>			<u>M.A.</u>	<u>1969</u>

MANAGEMENT EXPERIENCE

Type	Title	Date Started	Date Ended	Reason for Leaving
<u>Yellowstone</u>	<u>CEO</u>	<u>1997</u>		<u>Still in operation</u>
<u>Alta Systems</u>	<u>CEO</u>	<u>1990</u>	<u>1996</u>	<u>New Company</u>
DO YOU HAVE A PROFESSIONAL LICENSE OR CERTIFICATE? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IF YES, COMPLETE THE FOLLOWING				
Type	Period Held	Issuing Agency		
<u>Lifetime teaching credentials</u>	<u>lifetime</u>	<u>State of California</u>		

WORK EXPERIENCE. BEGIN WITH YOUR MOST RECENT WORK EXPERIENCE. LIST ALL EXPERIENCE RELEVANT TO THIS TYPE OF USE PERMIT.

Dates	Name and Address of Employer	Duties	Reason for Leaving
FROM <u>1997</u> TO <u>current</u>	<u>Yellowstone</u> <u>154 E. Bay St</u> <u>Costa Mesa, Ca</u>	<u>CEO</u>	<u>Still in operation</u>
FROM <u>1969</u> TO <u>2007</u>	<u>Coast Community College</u>	<u>Professor of Literature and Language</u>	<u>retired</u>
FROM			
TO			

Signed

Dr. Anna Marie Thames

Date

5/20/2008

City of Newport Beach
GROUP RESIDENTIAL USES - USE PERMIT APPLICATION
ADMINISTRATIVE ORGANIZATION & DELEGATION INFORMATION - CORPORATIONS
 (Form 200 - February 2008)

INSTRUCTIONS: This form must be updated and submitted to the City each time there is a change in officers or change in the corporation.

Yellowstone Women's first Step House CORPORATION **Dr. A.M. Thames**
 Name (as listed with the Secretary of State) Chief Executive Officer
 Incorporation Date **1997** Place of Incorporation **Costa Mesa, Ca**
 Principal office of business:
 Address **154 E. Bay St.** City **Costa Mesa,** Zip Code **92627** Telephone **949-646-4494**
 Contact Person **Leisha Mello** Title **Admin Coord.** Telephone **949-678-0761**
 Names and addresses of all persons who own ten per cent (10%) or more of stock in corporation.
N/A

Governing Board of Directors
 a. Number of Board Members **12** b. Term of Office **5 years**
 c. Frequency of Meetings **BiMonthly** d. Method of Selection **Voted**

Board Officers and Members USE A SEPARATE SHEET FOR ADDITIONAL NAMES				
Office	Name	Business Address & City & Zip Code	Telephone Number	Term Expiration
President	Dr. A.M. Thames	154 E. Bay St, Costa Mesa, Ca	949-678-9000	2010
Vice-President	Dexter Cohen	15 Lucerne, Newport Bch, Ca	949-	2010
Secretary	Leisha Mello	165 Virginia Pl. Costa Mesa, Ca 92627	949-678-0761	2010
Treasurer	Joan Franco	476 Trause Dr Costa Mesa, Ca 92627	949-678-0762	2010
Other				

City of Newport Beach
GROUP RESIDENTIAL USES - USE PERMIT APPLICATION
DELEGATION FORM - CORPORATIONS
(Form 200D - February 2008)

STATEMENT OF CORPORATE DELEGATION

Applicants who are corporations shall attach board resolutions authorizing a delegation to the Program Director and/or Administrator or other appropriate staff.

1. Applicant Name: D. A. M. Thomas
2. Program Name: Yellowstone
3. Program Address: 1561 Indus
4. City: Newport Bch County: Orange Zip Code: 92707
5. Telephone: (949) 646-4494
6. Leisha Mello
(Name of person(s) authorized by applicant)

...is hereby designated as administrator, program manager, or agent of the above-named program and is authorized to receive at the above named program on my behalf, any documents including reports of inspections and consultations, accusations, and civil and administrative processes.

I WILL NOTIFY THE CITY WITHIN 10 WORKING DAYS OF ANY CHANGE OF THE ADMINISTRATOR OF THE FACILITY.

7. Dr. A.M. Thomas
Signature of applicant(s)
8. Title: CEO
9. Address: 28 Ima Loa
10. City: Newport Bch County: Orange Zip Code: 92707

City of Newport Beach

GROUP RESIDENTIAL USES – USE PERMIT APPLICATION

ADMINISTRATIVE ORGANIZATION -

PARTNERSHIPS, SOLE PROPRIETOR, AND OTHER ASSOCIATIONS

(Form 200P – February 2008)

PARTNERSHIPS

1. Attach a copy of the partnership agreement

N/A

2. Partners

	Type of Partnership	Name	Business Address, City and Zip Code
1st Partner	<input type="checkbox"/> General <input type="checkbox"/> Limited		
2nd Partner	<input type="checkbox"/> General <input type="checkbox"/> Limited		
3rd Partner	<input type="checkbox"/> General <input type="checkbox"/> Limited		
4th Partner	<input type="checkbox"/> General <input type="checkbox"/> Limited		

Contact Person _____

Title _____

Telephone # _____

SOLE PROPRIETOR/OTHER ASSOCIATIONS

Sole Proprietors/other associations must also provide a list of all person(s) legally responsible for the organization, the contact person, and appropriate legal documents (fictitious name statement, business license) which set forth legal responsibility of the organization and accountability for opening the program. Use the following space or attach a separate sheet.

City of Newport Beach
 GROUP RESIDENTIAL USES – USE PERMIT APPLICATION
 WEEKLY ACTIVITIES SCHEDULE
 (Form 500 – February 2008)

WEEKLY SCHEDULE OF SERVICES

Time	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
6-7 a.m.							
7-8 a.m.							
8-9 a.m.							
9-10 a.m.							
10-11 a.m.							
11 a.m.-12							
12-1 p.m.							
1-2 p.m.							
2-3 p.m.							
3-4 p.m.							
4-5 p.m.							
5-6 p.m.							
6-7 p.m.							
7-8 p.m.							

*NA
 Sober Living*

TOTAL HOURS PER WEEK OF INDIVIDUAL/GROUP/EDUCATION SESSIONS, RECOVERY OR TREATMENT
 PLANNING, AND DETOXIFICATION SERVICES (IF PROVIDED): _____

Comments: _____

Oxford Houses of America - Directory

California

Foothill House

8055 Redwood Ave
Fontana, CA 92336-1639
(909) 428-7533

Gender: M
Total Occupancy: 9
Charter: 3/1/1996
Vacancies



Keystone Manor House

1561 Indus St
Newport Beach, CA 92660-5306
949-678-3110

Gender: W
Total Occupancy: 12
Charter: 3/1/2007
Vacancies



EXHIBIT 3

**CORRESPONDENCE AND SUBSEQUENT
APPLICATION SUBMITTALS**



CITY OF NEWPORT BEACH
PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92658
(949) 644-3200; FAX (949) 644-3229

June 19, 2008

YELLOWSTONE WOMEN'S FIRST STEP HOUSE, INC.

c/o Isaac R. Zfaty

SGSA Lawyers

19800 MacArthur Blvd., Suite 1000

Irvine, CA 92612

Dear Mr. Zfaty:

Subject: **NOTICE OF INCOMPLETE APPLICATION**
Use Permit No. 2008-034
Property located at 1561 Indus Street

This letter serves as notification that the Planning Department is in receipt of your application submittal regarding the proposed Use Permit for property located at the above referenced address. Upon review of your submitted application, documents and exhibits, the application has been deemed incomplete. Please provide the following clarifications and/or additional information:

1. Application Form 100, Item 2, Property Owner Information: Please provide a copy of a Preliminary Title Report or property profile that is less than 60 days old that verifies the legal owner of the property, and written authorization from the legal owner authorizing filing of this application.
2. Application Form 100, Item 3B, Other Similar Uses: Information on other Similar Use permits within the City is not provided, but will be provided by City staff from City records. However, the application is not complete until this information is included in application package.
3. Application Form 100, Item 4, Firm's Historic Uses: Other managed group residential uses are checked no, however your applications indicate that three other group homes are operated in Newport Beach. Please list these uses.
4. Application Form 100, Item 5, Conditional Uses Within 3 Block Radius: Information on other Use permits within the 3 block radius area is not provided, but will be provided by City staff from City records. However, the application is not complete until this information is included in application package.
5. Application Form 100, Item 6, Site Plan: Please provide a site plan which shows the building footprint and property lines and the building footprints and property lines for immediately adjacent properties. Show dimensions and setbacks.

6. Application Form 100, Item 8B, Facility Users and Staff: The maximum resident capacity is stated as zero (0) but the total occupancy is stated as 12. As two staff residents are indicated does that mean the resident capacity is 10? Please clarify.
7. Application Form 100, Item 8C, Floor Plan: Please provide a floor plan identifying the number of residents per bedroom. The diagram must also show setbacks, driveways, and usable outdoor spaces.
8. Application Form 100, Item 8L, Secondhand Smoke: As Dr. Anna Marie Thames is indicated as facility Administrator/Director, please have her sign the acknowledgement to control secondhand smoke. It is not clear what role Leisha Mello plays at the facility.
9. Application Form 100, Item 10D, Signature of Applicant: Leisha Mello is listed as administrator, however Dr. Anna Marie Thames is indicated as facility Administrator/Director on Form 150. Please clarify.
10. Application Form 200, Corporate Delegation: Please provide corporate board resolution(s) authorizing delegation of corporate representation to the person indicated on line 6 of the form. Line 6 designates Leisha Mello as administrator/program manager. Please clarify the roles and responsibilities of Leisha Mello and Dr. Anna Marie Thames as Dr. Thames is indicated as facility administrator/director on Form 150.
11. Application Form 850, Fire Marshall Clearance: Please provide evidence (Form 850) of recent Fire Marshall clearance.
12. Filing Fee: Please remit the Use permit filing fee of \$2,200.00.
13. Request For Reasonable Accommodation: Please provide additional information regarding the Request for Reasonable Accommodation using the enclosed forms.

Should you have any questions regarding the requested clarifications or additional information, please do not hesitate to contact me at (949) 266-7548.

Sincerely,

By


Roger Mobley
Consulting Planner

cc: Janet Brown, Associate Planner
Dr. Anna Marie Thames, Yellowstone Women's First Step House

YS 00121



DAVIS • RAYBURN
A PROFESSIONAL LAW CORPORATION

July 25, 2008

RECEIVED BY
PLANNING DEPARTMENT

JUL 29 2008

VIA FIRST CLASS MAIL

CITY OF NEWPORT BEACH
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658-8915

CITY OF NEWPORT BEACH

Re: Use Permit Applications; 2008-034; 2008-035; 2008-036; and 2008-037

To Whom It May Concern:

This firm is general counsel for **Yellowstone Women's First Step House, Inc.** This correspondence is in response to your notices of incomplete application concerning the above-referenced Use Permit Applications for the following properties: 1561 Indus, 1621 Indus, 1571 Pegasus, and 20172 Redlands.

Our office is currently gathering the required information referenced in your notices in order to complete our applications. We should have the information forwarded to you within the next twenty-one (21) days.

Thank you for your courtesy and if you have any questions regarding this correspondence, please feel free to contact us.

Very truly yours,

DAVIS & RAYBURN
a professional corporation

ISAAC R. ZFATY

IRZ:jdb



RECEIVED BY
PLANNING DEPARTMENT

AUG 26 2008

CITY OF NEWPORT BEACH

August 22, 2008

8005-003

VIA FIRST CLASS MAIL

Ms. Janet Brown
CITY OF NEWPORT BEACH
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Re: Notice of Incomplete Application: 1561 Indus Street

Dear Ms. Brown:

As you know, this firm is general counsel for **Yellowstone Women's First Step House, Inc. ("Yellowstone")**. We are in receipt of the City of Newport Beach's Notice of Incomplete Application for the property located at 1561 Indus Street (the "Property").

In response to that notice, we provide herewith the following:

1. Application Form 100, Item 2, Property Owner Information: the requested information is enclosed herewith.
2. Item 3B: We have no information regarding other similar uses and we appreciate the City's offer to provide this information.
3. Item 4: We cross-reference and incorporate the other applications, which are being provided concurrently under separate cover.
4. Item 5: We have no information regarding other conditional uses and we appreciate the City's offer to provide this information.
5. Item 6: A site plan is enclosed herewith.
6. Item 8B: Resident capacity is 10. Total capacity is 12.
7. Item 8C: A floor plan is enclosed herewith.
8. Item 8L: The acknowledgement re secondhand smoke is enclosed herewith.
9. Item 10D: Dr. Thames is the facility Director.
10. Form 200: A board resolution is enclosed herewith.
11. Form 850: Fire Marshall Clearance is enclosed herewith.
12. Request for reasonable accommodation: See the enclosed form.

The one item that we have not included in this correspondence is the requested \$2,200.00 fee. After reviewing the code, we have been unable to locate any discussion of such fee. We mention this not to question the City's authority to impose such a fee, but rather because we have not seen any statutory scheme that should provide for a hardship exception. We would respectfully request that the City furnish such authority, and also provide us with any exemption

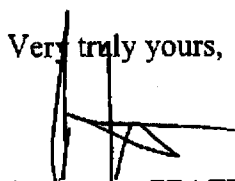
City of Newport Beach
August 22, 2008
Page 2

application. Alternatively, we would request an extension of time to remit such fee so that we might be able to raise the funds necessary to accommodate the City's request.

As a final note, it is worth mentioning that it is our understanding that the Property is still currently located in an unincorporated area of Orange County known as Santa Ana Heights, and that the Newport Beach annex of the property is not yet complete. If this is true, then we would submit that the city of Newport Beach does not have jurisdiction over this property. Any response that the City can provide regarding this matter would be greatly appreciated. To the extent that our understanding is correct, we would ask that the City simply hold our application until such time as the annexation is complete, so that the parties are not required to reinitiate this process.

Please accept our apologies for the delay in providing the enclosed information. As always, if you have any questions regarding these applications, please feel free to contact us.

Very truly yours,

A handwritten signature in black ink, appearing to read 'ISAAC R. ZFATY', written over a horizontal line.

ISAAC R. ZFATY

IRZ/jmk

cc: Yellowstone (attn: Dr. Anna Marie Thames)

YS 00124

FIDELITY NATIONAL TITLE
RECORDING REQUESTED BY

Escrow No.: 00031693 GF
Title Order No.: 30137878

When Recorded Mail Document
and Tax Statement To:
ANNA THAMES

154 E. Bay
Costa Mesa CA 92627

This Document was electronically recorded.
Fidelity National Title B

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder



9.00

2007000166869 03:51pm 03/15/07

110 27 G02 2

434.50 434.50 0.00 0.00 3.00 0.00 0.00 0.00

APN: 119-361-08

SPACE ABOVE THIS LINE FOR RECORDER'S USE
GRANT DEED

THE UNDERSIGNED GRANTOR(s) DECLARE(s)

Documentary Transfer Tax is \$869.00

- ☒ computed on full value of property conveyed, or
☐ computed full value less value of liens or encumbrances remaining at the time of sale
☐ unincorporated area ☒ City of Santa Ana

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Celia Johnson, a widow
hereby GRANT(s) to Anna Thames, AN UNMARRIED WOMAN

the following described real property in the City of Santa Ana County of Orange, State of California:
LOT 14, TRACT 4307, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 153,
PAGES 18 TO 20 MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Dated: December 26, 2006

STATE OF CALIFORNIA } ss:
COUNTY OF ORANGE

On FEB 20TH 2007, before me,

SHAUN PRETTYMAN
a Notary Public, personally appeared CELIA
JOHNSON ONLY

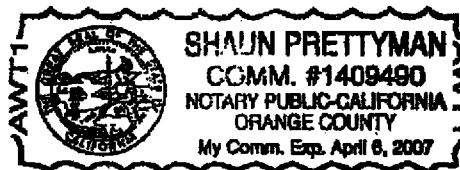
personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person(s) whose name(s)
is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s),
or the entity upon behalf of which the person(s) acted,
executed the instrument.

Celia Johnson

N/A

WITNESS my hand and official seal.

Signature




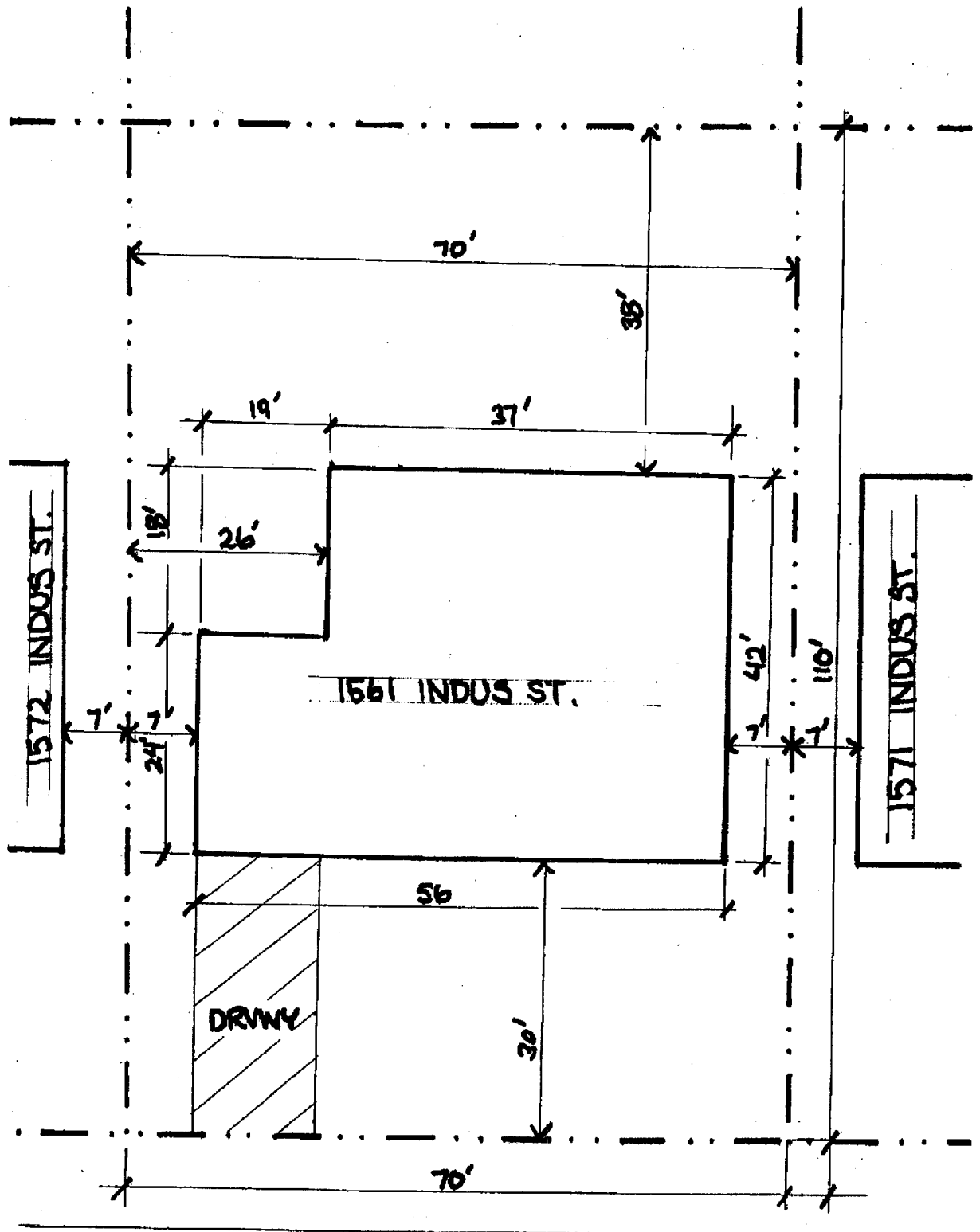
MAIL TAX STATEMENT AS DIRECTED ABOVE

TO: CITY OF NEWPORT BEACH
FROM: DR. ANNA THAMES OWNER
RE: AUTHORIZATION

THIS IS AN OFFICIAL AUTHORIZATION TO MAKE
APPLICATION FOR THE "OXFORD" HOUSE AT
1561 INDUS, NEWPORT BEACH, CAL.
REGISTERED AS "KEYSTONE MANOR."

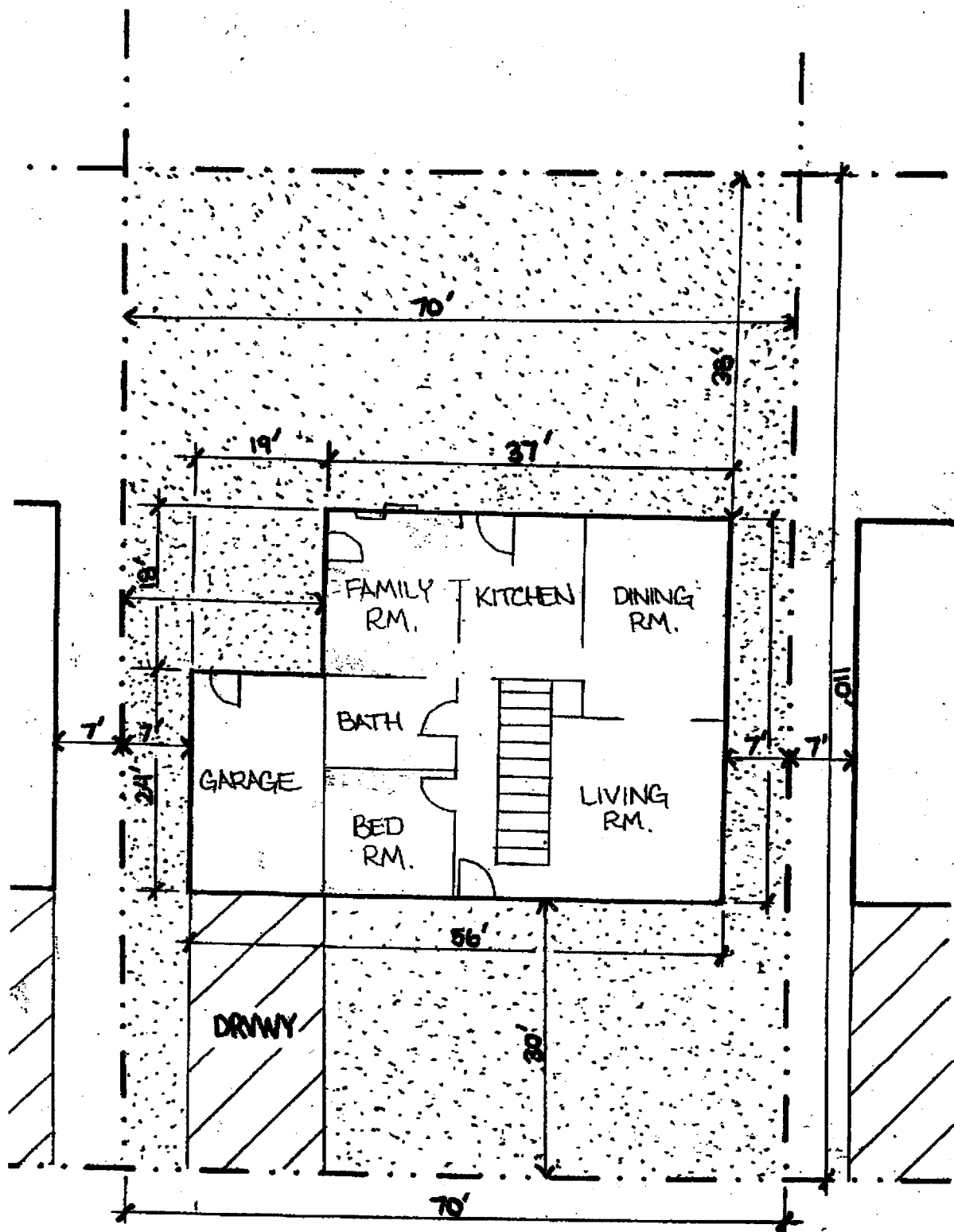
DATE AUTHORIZED: JUNE 30, 2008


SIGNATURE



1561 INDUS STREET
KEYSTONE HOUSE

SITE PLAN

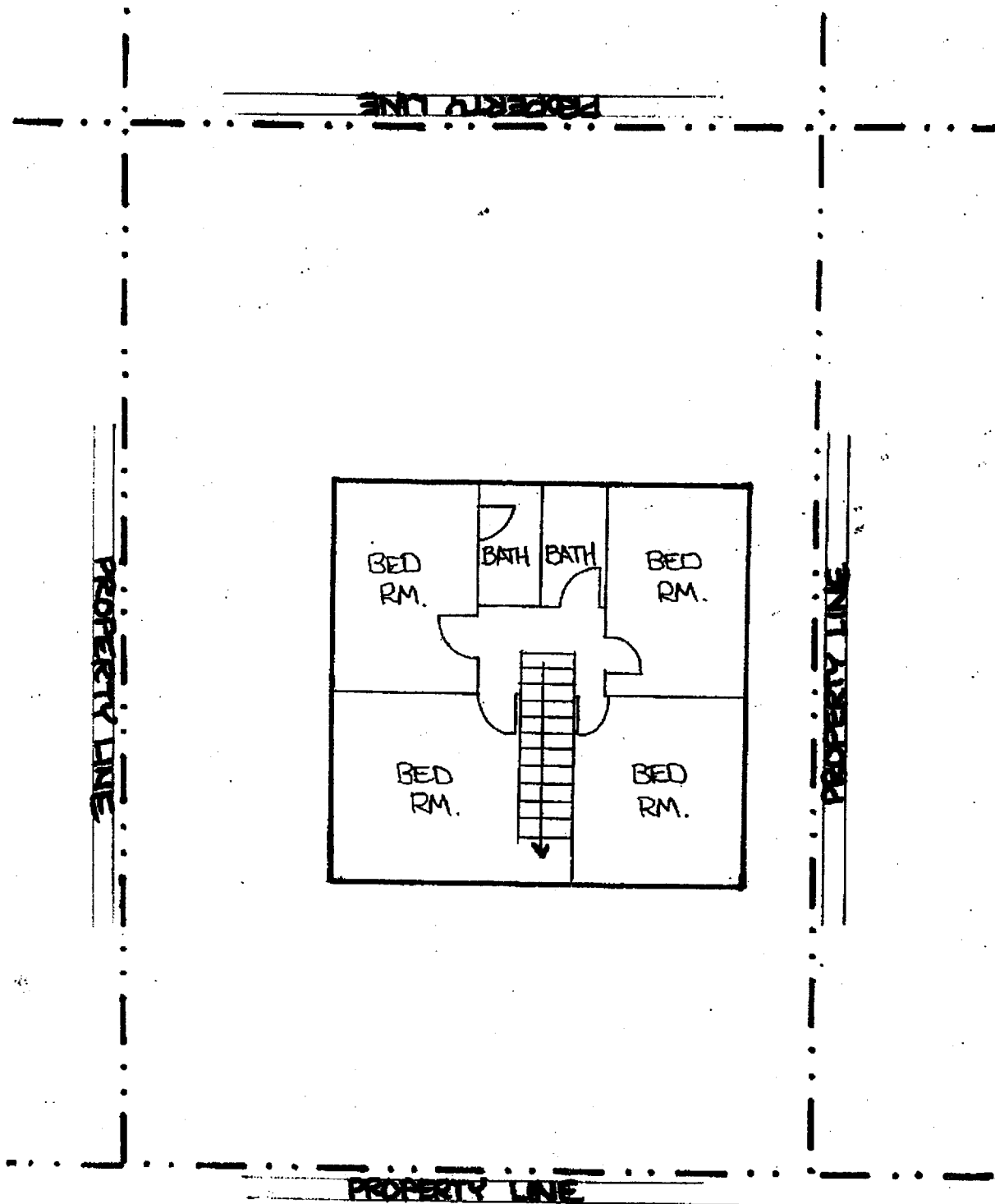


LEGEND	
	SETBACKS
	DRIVWAYS
	USABLE OUTDOOR

1561 INDUS STREET

KEYSTONE HOUSE

1ST. FLOOR PLAN

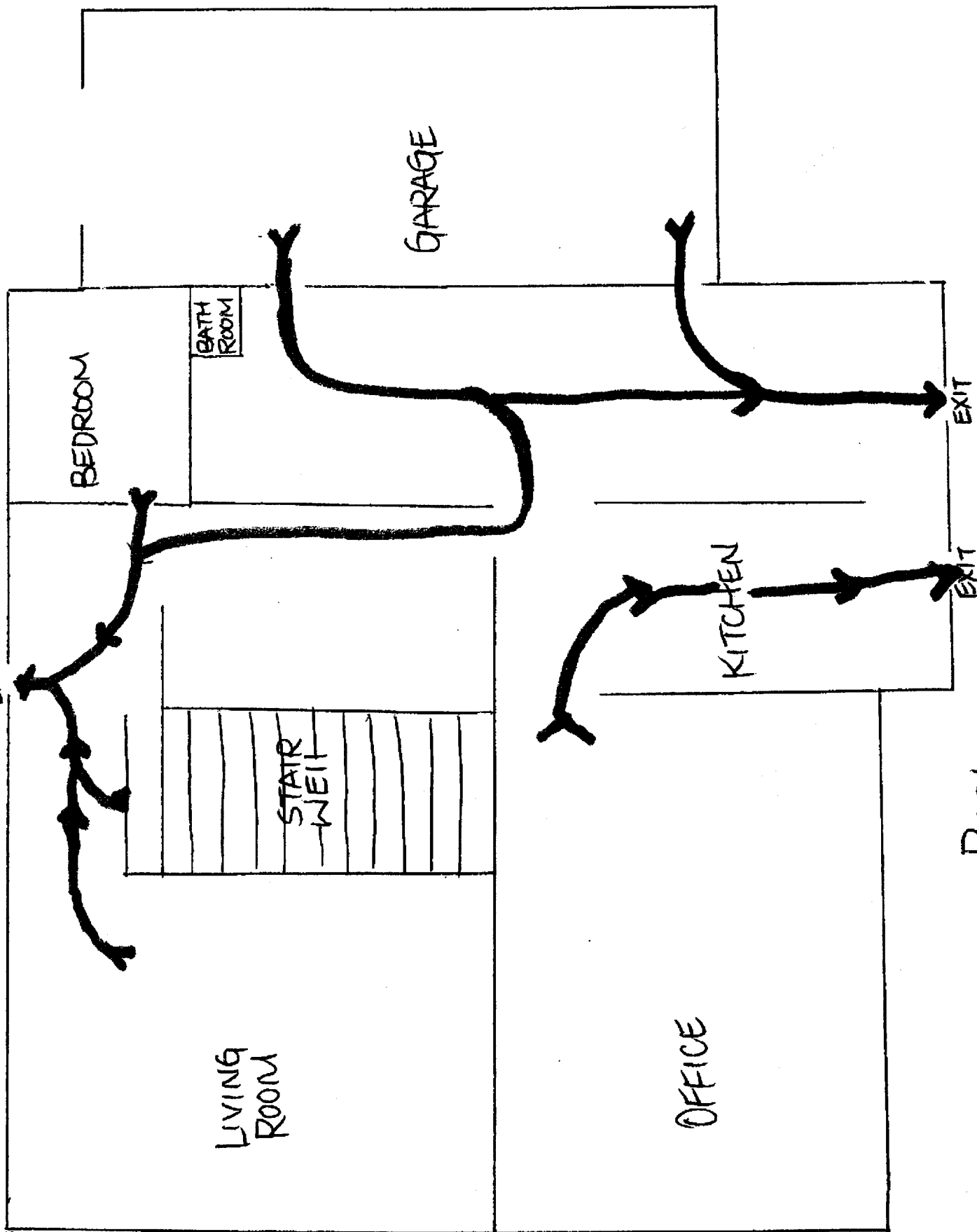


1861 INDUS STREET
.. KEYSTONE HOUSE ..

2ND. FLOOR PLAN

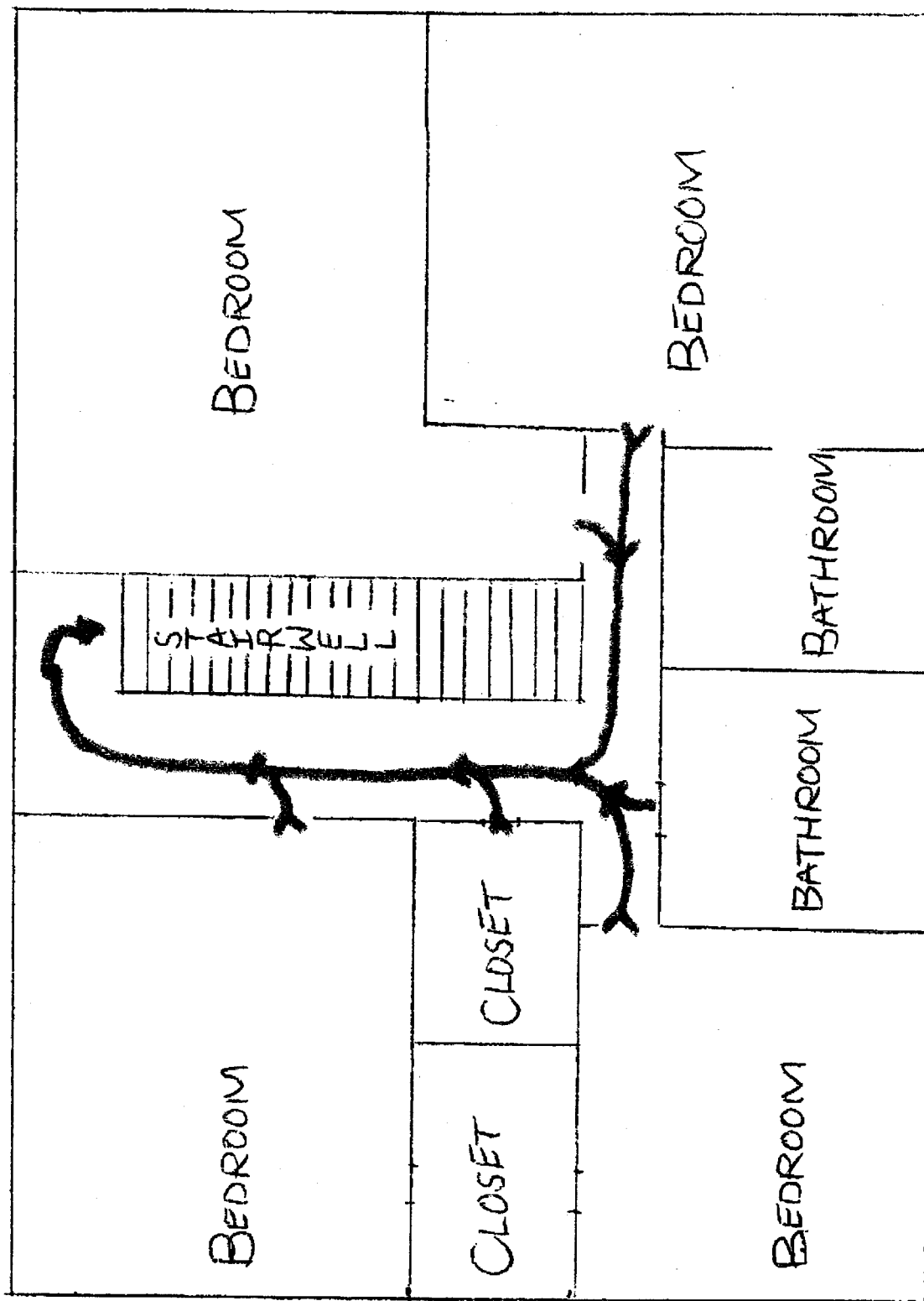
HOUSE

FRONT
GROUND FLOOR
EXIT



D. 11-

FRONT
TOP FLOOR



BACK

☐ Orange County Sober Living Network (recommended)

☐ Other (please describe) _____

L. SECONDHAND SMOKE LIMITATIONS

NBMC §20.91A.050.A directs that "no staff, clients, guests, or any other users of the facility may smoke in an area from which the secondhand smoke may be detected on any parcel other than the parcel upon which the facility is located. Check and sign here to acknowledge this requirement and your use's adherence to it:

☒ I acknowledge that I will control secondhand smoke on my facility such that no secondhand smoke may be detected on any parcel other than the parcel upon which my facility is located.

Signature: B. Antremis

Date: 7/21/2008

9. APPLICANT OBLIGATIONS

- A. The "owner of record" of the property or an authorized agent must sign this Application. Signing the application under Section 10 means that the applicant certifies, under penalty of perjury, that the information provided within the Application and its attachments is true and correct. Per NBMC §20.90.030.C, false statements are grounds for denial or revocation.
- B. The Applicant acknowledges that he or she must comply with all other Federal, State, and local laws and regulations relating to this use. The Applicant understands that a violation of Federal, State, and local laws and regulations is grounds for revocation of the Permit. The Applicant understands and acknowledges that it is against California law to provide treatment (as defined) in an unlicensed facility.
- C. If the City issues a Use Permit based on the information provided in this Application, the Applicant's signature below certifies his or her agreement to comply with the terms of the Use Permit. The Applicant understands and acknowledges that non-compliance with the terms of the Use Permit is grounds for revocation of the Permit.

Revocation of the Use Permit. NBMC §20.96.040.E provides that the City can revoke a Use Permit if:

- The permit was issued under erroneous information or misrepresentation; or
- The applicant made a false or misleading statement of material fact, or omitted a material fact; or
- The conditions of use or other regulations or laws have been violated; or
- There has been a discontinuance of use for 180 days or more.

10. AUTHORIZED SIGNATURE(S) OF APPLICANT

THE UNDERSIGNED ASSURES THAT THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT AND THAT THE APPLICANT HAS READ AND UNDERSTOOD HIS OR HER OBLIGATIONS UNDER ANY USE PERMIT ISSUED BASED ON THIS APPLICATION.

- A. If the applicant is a sole proprietor, the application shall be signed by the proprietor.
- B. If the applicant is a partnership, the application shall be signed by each partner.
- C. If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or the individual legally responsible for representing the agency.

YELLOWSTONE BOARD RESOLUTION:

THE SIGNATURES BELOW REPRESENT AGREEENT AND ENDORSEMENT OF THE BOARD OF TRUSTEES OF YELLOWSTONE FOR THE FOLLOWING:

DR. A.M. THAMES IS THE CEO OF THE BOARD AND AGREES TO REPRESENT YELLOWSTONE IN ALL NEGOTIATIONS WITH THE CITY OF NEWPORT BEACH. SHE WILL SIGN ANY AND ALL FINAL AGREEMENTS.

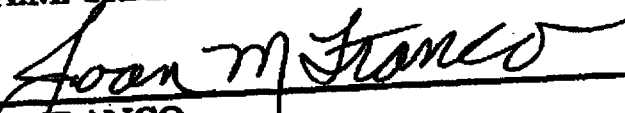
ATTORNEY ISAAC ZFATY, WILL PROVIDE LEGAL REPRESENTATION IN ALL MATTERS IN THE AGREEMENTS WITH THE CITY OF NEWPORT BEACH

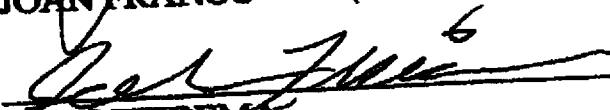
LEISHA MELLO, AS ADMINISTRATOR FOR YELLOWSTONE WILL ALSO BE AVAILABLE FOR DISCUSSIONS RELATED TO THE AGREEMENTS WITH THE CITY OF NEWPORT BEACH.

THESE AGREEMENTS AND ENDORSEMENTS ARE APPROVED BY THE BOARD OF TRUSTEES AS OF JULY 1, 2008.

BOARD MEMBERS SIGNING:


DR. A.M. THAMES


JOAN FRANCO


JOHN ZEIDEMA


ROY WARD


LISA TUMAN

STATE OF CALIFORNIA

FIRE SAFETY INSPECTION REQUEST

STD. 850 (REV. 10-84)

See instructions on reverse.

AGENCY CONTACT'S NAME

Chuck Browning

EVALUATOR'S NAME

Chuck Browning

TELEPHONE NUMBER

(916) 322-2991

REQUEST DATE

04/01/2008

PROGRAM

A / DRF

REQUESTING AGENCY FACILITY NUMBER

NOT ASSIGNED YET

REQUEST CODE

1 A

LICENSING
AGENCY
NAME AND
ADDRESS

Department of Alcohol+Drug Programs
Licensing and Certification Branch
1700 K. STREET
Sacramento, CA 95814-4037

CODES

1. ORIGINAL A. FIRE CLEARANCE
2. RENEWAL B. LIFE SAFETY
3. CAPACITY CHANGE
4. OWNERSHIP CHANGE
5. ADDRESS CHANGE
6. NAME CHANGE
7. OTHER

AMBULATORY		NONAMBULATORY		BEDRIDDEN		TOTAL CAPACITY
CAPACITY	PREVIOUS CAPACITY	CAPACITY	PREVIOUS CAPACITY	CAPACITY	PREVIOUS CAPACITY	
12						12
FACILITY NAME Keystone Manor - Yellowstone						LICENSING CATEGORY
STREET ADDRESS (Actual Location) 1861 Indus						NUMBER OF BUILDINGS 1
CITY Santa Ana Heights						RESTRAINT
FACILITY CONTACT PERSON'S NAME Lerisha Mello						HOURS 24
SPECIAL CONDITIONS						

TO BE COMPLETED BY INSPECTING AUTHORITY

FIRE
AUTHORITY
NAME AND
ADDRESS

Orange County Fire Authority
87 Journey
Aliso Viejo, CA 92686

CLEARANCE/DENIAL CODE

CODES

1. FIRE CLEARANCE GRANTED
2. FIRE CLEARANCE DENIED
 - A. EXITS
 - B. CONSTRUCTION
 - C. FIRE ALARM
 - D. SPRINKLERS
 - E. HOUSEKEEPING
 - F. SPECIAL HAZARD
 - G. OTHER

INSPECTOR'S NAME (Typed or Printed)

TELEPHONE NUMBER

OFRS NUMBER

OCCUPANCY CLASS

INSPECTION DATE

INSPECTOR'S SIGNATURE

EXPLAIN DENIAL OR LIST SPECIAL CONDITIONS



CITY OF NEWPORT BEACH

Supplemental Information for Reasonable Accommodation

Planning Department
3300 Newport Boulevard
Newport Beach, California 92658-8915
(949) 644-3200

Application Number _____

To aid staff in determining that the necessary findings can be made in this particular case as set forth in Chapter 20.98 of the Municipal Code, please answer the following questions with regard to your request (Please attach on separate sheets, if necessary):

Please see attached sheet

Name of Applicant

If provider of housing, name of facility, including legal name of corporation

(Mailing Address of Applicant)

(City/State)

(Zip)

(Telephone)

(Fax number)

(E-Mail address)

(Subject Property Address)

Assessor's Parcel Number (APN)

1. Is this application being submitted by a person with a disability, that person's representative, or a developer or provider of housing for individuals with a disability?

2. Does the applicant, or individual(s) on whose behalf the application is being made, have physical or mental impairments that substantially limit one or more of such person's major life activities? If so, please state the impairment(s) and provide documentation of such impairment(s).

3. From which specific Zoning Code provisions, policies or practices are you seeking an exception or modification?

4. Please explain why the specific exception or modification requested is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy the residence. Please provide documentation, if any, to support your explanation.

5. Please explain why the requested accommodation will affirmatively enhance the quality of life of the individual with a disability. Please provide documentation, if any, to support your explanation.

6. Please explain how the individual with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation? Please provide documentation, if any, to support your explanation.

7. If the applicant is a developer or provider of housing for individuals with a disability, please explain why the requested accommodation is necessary to make your facility economically viable in light of the relevant market and market participants. Please provide documentation, if any, to support your explanation.

8. If the applicant is a developer or provider of housing for individuals with a disability, please explain why the requested accommodation is necessary for your facility to provide individuals with a disability an equal opportunity to live in a residential setting taking into consideration the existing supply of facilities of a similar nature and operation in the community. Please provide documentation, if any, to support your explanation.

Application Number _____

9. Please add any other information that may be helpful to the applicant to enable the City to determine whether the findings set forth in Chapter 20.98 can be made (Use additional pages if necessary.) _____

1561 Indus Attachment

Name of applicant: Yellowstone, Woman's First Step House, Inc., 1561 Indus St., Santa Ana Heights, CA 92701; Phone: 888.941.9048; Fax: 949.646.5296; APN: 119-361-08.

1. This application is provided by a provider of housing for individuals with a disability.
2. The individuals are alcoholics.
3. Single family residence to multi-family residence.
4. The applicant provides the residents of the Property with housing where same is otherwise unavailable to them. Most residents are long-term residents who are able to live with their disability, and in a sober environment, as a result of the provision of the facility by the applicant. The success of sober living homes in assisting these disabled individuals throughout the United States is well documented. Similar success has been realized at the Property addressed herein. A sample of the literature on sober living homes was attached to the original application. Without the home addressed in this application, the individuals who live at this home would not have access to sober living homes, and would not be able to afford to live in such a home in Orange County. Yellowstone provides this home to satisfy the otherwise unaddressed need by these disabled individuals for an equal opportunity to use and enjoy a dwelling. There is no question that, with their current use, this property affirmatively enhances the lives of many individuals with disabilities. Importantly, the rent charged to these individuals simply covers Yellowstone's costs; no profit is realized. In fact, without charitable contributions, Yellowstone would operate at a loss. By no means is Yellowstone, or any individual involved with Yellowstone, a profiteer. Yellowstone simply makes available a sober living environment in an effort to help these disabled individuals, and with a view toward enhancing the community. To the extent that Yellowstone is forced to remove its operations from this property, it will suffer extreme economic hardship. Moreover, with any prospective closure of the property as a sober living home, the individuals with disabilities who live in the home will be without accommodation. Yellowstone is compliant with all of the requirements in the City of Newport Beach's Good Neighbor Principles, and is tenacious in ensuring that all residents at the Property strictly observe these requirements. Approval of this application would not alter the nature of the municipal code or impose any financial or administrative burden on the City. This property has been operating under these same general guidelines for years without imposing any burden upon the County or City. The residential character of the neighborhoods in which this property is located will not be altered in any way with the approval of this application. In fact, there is no non-residential use at the property. Moreover, there is no campus established through the grant of this application. Residents this property are not allowed at any of other property operated by Yellowston, and there are no functions that include all residents. Yellowstone has never been cited by any municipality at this property for any of the complaints set forth specifically in Ordinance 2008-5,

Page 4, Paragraph 13. No health, safety or physical damage issues are presented with granting of these applications.

5. See response to No. 4.
6. See response to No. 4.
7. See response to No. 4. The applicant is not a developer. The applicant has operated at the Property for years and currently can afford this property. Due to the economic decline, and specifically as it pertains to residential housing, the forced sale of this property would cause an extreme economic hardship.
8. See responses to No. 4 and 7.
9. The applicant is a long-standing tenant in the community, and has had a presence in Santa Ana Heights for years. The applicant prides itself in acting as a good neighbor. As noted above, the applicant has an extremely high success rate in assisting disabled individuals live and integrate into Orange County. The applicant affirmatively enhances the lives of its residents. Any abatement of this facility would be harmful to the community.



PLANNING DEPARTMENT

3300 Newport Boulevard, Building C, Newport Beach, CA 92663
(949) 644-3200 Fax: (949) 644-3229 website: www.city.newport-beach.ca.us

November 7, 2008

YELLOWSTONE WOMEN'S FIRST STEP HOUSE, INC.

c/o Isaac R. Zfaty

Davis & Rayburn, Attorneys at Law

580 Broadway Street, Suite 301

Laguna Beach, CA 92651

Dear Mr. Zfaty:

Subject: NOTICE OF INCOMPLETE APPLICATION

Use Permit No. 2008-034

Property located at 1561 Indus Street

I am writing as the City of Newport Beach's consulting case planner for this use permit application. This letter is a response to your letter dated August 22, 2008, in which you responded to the City's Notice of Incomplete Application dated June 19, 2008, and is also a follow-up to our October 8, 2008, meeting at the City. The City appreciates your responses and the opportunity to meet with you. However, at this time your application for Use Permit No. 2008-034 for property located at 1561 Indus Street remains incomplete.

As we discussed at our October 8th meeting, the area of West Santa Ana Heights was formally annexed to the City of Newport Beach, effective January 1, 2008, and the property located at 1561 Indus Street is therefore subject to the City's land use regulations, including the Residential Care provisions of the Newport Beach Municipal Code (NBMC).

With respect to the items that continue to be deficient or missing from the use permit application submittal, please provide the following:

1. A Preliminary Title Report that is less than 60 days old. This requirement is necessary to not only verify the ownership of record, but also will verify any deed

restrictions (or lack thereof) such as CC&Rs that may place restrictions on the use of the property.

2. The site plan submitted does not appear to be accurately drawn when reviewing it against aerial photographs, and the site plan and floor plans are not drawn to scale. The site plan must show the property line dimensions, distance or setback from property lines to the building, usable outdoor spaces, and the location of driveways. The site plan must also include the property lines and building footprints on immediately adjacent parcels. The floor plans must provide an accurate count of bedrooms and number of beds/residents within each bedroom, as well as all rooms intended for residents' use, and the location and dimension of the garage.
3. As noted at the meeting of October 8th you are required to provide the City of Newport Beach Fire Marshal with a comprehensive code analysis prepared by a licensed architect. Requirements for the code analysis were provided to you at the meeting. However, should you have any questions regarding these requirements, please contact Steve Bunting, Fire Marshal, at (949) 644-3106. In addition, please provide the Fire Marshal with the year the home began to be used for sober living purposes. The plans that are required to be prepared for the code analysis may also be used to satisfy the requirement for a site plan and floor plans as noted above.
4. Please provide an explanation of the number of parking spaces provided on site and information regarding the maximum number of employees or others on site at any one time that will have autos. Include an explanation of the use of vans to transport residents to treatment facilities and other activities and provide a transportation route diagram.
5. You have discussed the unlicensed status of the Yellowstone facility at this address with our City Attorney's Office. Please review the Disclosure Statement and revise the licensing statement made in the application if necessary.
6. If certification specific to the type of facility is available from a governmental agency or qualified nonprofit organization, the facility shall receive such certification including without limitation, certification by Orange County under its Adult Alcohol and Drug Sober Living Facilities Certification Program. Please provide evidence of any certifications held for this address.

You also have requested information regarding the City's authority to impose an Application Fee of \$2,200 and have asked for evidence of such City authority. Please note Section 20.90.030(D) (Application Filing) of Title 20 of the NBMC states that "Applications for discretionary approvals shall be accompanied by a fee as established by resolution of the City Council." In addition, Chapter 3.36 of the NBMC provides the basis for recovering actual costs for application processing.

On the basis of the foregoing requirements, you may wish to reevaluate and amend the Reasonable Accommodation application you have submitted with the use permit application. In addition, Item 2 on the Reasonable Accommodation supplemental form requests documentation of the disability for which the request for a reasonable accommodation is being made. That documentation has not been provided. Please provide documentation that the individuals on whose behalf the application is made are disabled under the governing law. The City leaves to the discretion of Yellowstone Women's First Step House and/or the individuals the nature of the documentation to be submitted. Understanding the concerns about privacy, the City will accept documentation disclosing only the person's first name or initials (with all other identifying information redacted).

Please be advised that failure to obtain a use permit for the residential care facility use of the subject property shall render the use of property nonconforming. Nonconforming uses of property are subject to abatement, per Section 20.62.090 of the NBMC, and if the required use permit is not obtained by February 9, 2009, the use will be subject to abatement in accordance with the Code.

City staff appreciates your continuing cooperation. However, we are unable to process your Use Permit application and Reasonable Accommodation application and schedule a public hearing until we receive the pending submittal items outlined above. Should you have questions regarding the aforementioned, please contact me at (562) 989-6664 or by email at dghc@verizon.net.

Sincerely,

By 
William Cunningham
Consulting Planner

Cc: Janet Brown, Associate Planner
Dr. Anna Marie Thames, Yellowstone Women's First Step House

DEC 23 2008



DAVIS • ZFATY
A PROFESSIONAL LAW CORPORATION

December 23, 2008

CITY OF NEWPORT BEACH

Z175.1

VIA FIRST CLASS MAIL

Ms. Janet Brown
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92658

Re: Notice of Incomplete Application: Yellowstone – 1561 Indus

Dear Ms. Brown:

This firm is general counsel for Yellowstone Women's First Step House, Inc. ("Yellowstone"). We are in receipt of the City of Newport Beach's Notice of Incomplete Application dated November 7, 2008 in which the City asked Yellowstone to address six deficiencies in its Use Permit Application for 1561 Indus. Enclosed herewith is the documentation you requested. Below is a brief description of the enclosed materials.

Preliminary Title Reports

A preliminary title report for 1561 Indus is included. As requested, the preliminary title report is less than 60 days old.

Site Plans

The site plans for 1561 Indus show the property dimensions, setback from the property line to the buildings, useable outdoor space, and the location of driveways. The site plans also include the property lines and building footprints on immediately adjacent parcels. Finally, the site plans include an accurate count of bedrooms in the home, the number of residents within each bedroom, the rooms intended to be used by residents, and the location and dimension of the garage.

Ms. Janet Brown
December 23, 2008

Code Analysis

A code analysis is provided herewith. The code analysis discusses the property, which is compliance with the R4 Building and Fire Code Requirements. Also, your November 7, 2008 letter requested that we provide the Fire Marshal with the year each of the homes began to be used for sober living purposes.

Those dates are as follows:

1561 Indus – 2007
1621 Indus – 2003
20172 Redlands – 2005
1571 Pegasus – 2005

Parking and Transportation

The documentation enclosed provides the number of available parking spaces at 1561 Indus and the number of employees who park on site. Route maps from the home to treatment and from the home to St. John church are also provided.

With respect to transportation to and from 1561 Indus, we would like to address variations in previous submittals that have since been resolved. Paragraph 12 of the Request for Reasonable Accommodation for 1561 Indus states that Yellowstone does not provide transportation. Though this is generally true, upon further review, we feel that it is important to note that the home provides some basic transportation to other non-Newport Beach facilities and to St. John church. Both locations are within ten minutes of the home and, as stated above, we have included route maps for your convenience. Finally, the vans that transport the residents are not parked on site. When not in use, the vans are kept in another city.

Licensing Status

As we have discussed, none of the four homes is ADP licensed. To the extent that any prior representations regarding ADP licensing were made, we have learned that same were incorrect. If you have any questions regarding this item, or need any further explanation as to the reasons for our error, we are more than happy to provide same. As we have never provided treatment in these facilities (nor represented that in any prior communication with the City), this does not represent a material change to our application.

Certifications

Enclosed is a copy of the certification for 1561 Indus. The home is certified as an Oxford Charter House.

Ms. Janet Brown
December 23, 2008

I hope that the enclosed materials complete Yellowstone's Application and clarify any ambiguities in our previous submissions to the city regarding 1561 Indus. As always, if you have any questions regarding this correspondence, please feel free to contact me.

Very truly yours,

DAVIS ZFATY,
a professional corporation

A handwritten signature in black ink, appearing to read "N. Cohrs", written in a cursive style.

NICOLE COHRS

<u>YELLOWSTONE - 1561 INDUS</u>	
1.	Preliminary Title Report
2.	Code Analysis
3.	Parking and Route Maps
4.	Certification

RECEIVED BY
PLANNING DEPARTMENT

DEC 29 2008

CITY OF NEWPORT BEACH



FIDELITY NATIONAL TITLE INSURANCE COMPANY

PRELIMINARY REPORT

In response to the application for a policy of title insurance referenced herein, Fidelity National Title Insurance Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Fidelity National Title Insurance Company.

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

Dated: 11/18/2008

Countersigned:

Susan B. Falsetti
Susan B. Falsetti

Fidelity National Title Insurance Company



BY:

ATTEST

[Signature] President
[Signature] Secretary

PRELIMINARY REPORT

Loan No.: THAMES

Title No: 1763948 - 1

Rate: \$625.00

PROPERTY ADDRESS: 1561 INDUS ST, SANTA ANA, CA, 92707-5306

EFFECTIVE DATE: 11/18/2008

The form of policy or policies of the title insurance contemplated by this report is:

American Land Title Association Loan Policy 2006 with ALTA endorsement coverage

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

Fee Simple

2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

Anna Thames, an unmarried woman

3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF
TAX ID: 119-361-08**

LEGAL DESCRIPTION

EXHIBIT "A"

All that certain parcel of land situate in the City of Santa Ana, County of Orange and State of California being known and designated as follows:

LOT 14, TRACT 4307, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 153, PAGES 18 TO 20 MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Being more fully described in Deed Doc: 2007-166869 dated 12/26/2006 recorded 3/15/2007.

LEGAL DESCRIPTION

EXHIBIT "A"

All that certain parcel of land situate in the City of Santa Ana, County of Orange and State of California being known and designated as follows:

LOT 14, TRACT 4307, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 153, PAGES 18 TO 20 MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Being more fully described in Deed Doc: 2007-166869 dated 12/26/2006 recorded 3/15/2007.